Al-Din al-Qayyim:

On *Taqlid* and *Ijtihad*

A Refutation of Ibn Qayyim al-Jawziyyah's Arguments against *Taqlid*

Mawlana Habib Ahmad al-Kiranawi

Translator's Preface

In Allah's Name, the Infinitely Merciful, the Beneficent. All praise to Allah, Lord of the Worlds. May blessings and peace shower on His final Messenger, Muhammad, his family and his companions.

This book is a translation of the treatise *al-Din al-Qayyim* by the late Indian scholar, Mawlana Habib Ahmad al-Kiranawi, published with a number of his other writings under the title *Fawa'id fi 'Ulum al-Fiqh*. *Al-Din al-Qayyim* was written as a detailed refutation of Shaykh Ibn Qayyim al-Jawziyyah's (691 H/1292 CE - 751 H/1349 CE) arguments against *taqlid* from his *I'lam al-Muwaqqi'in* which offers the most thorough denunciation of *taqlid* and its proofs to date. The refutation was written in Arabic by Mawlana Habib Ahmad under the supervision of Hakim al-Ummah Mawlana Ashraf 'Ali al-Thanawi (d. 1362 H/ 1943 AD) as part of the general introduction to the 20-volume compendium of hadith-proofs for the Hanafi *madhhab*, *I'la al-Sunan*.*

Mawlana Habib Ahmad in a rigorous and precise manner shows not only that *taqlid*, which is the non-*mujtahid*'s deference to a *mujtahid* Imam in rulings of the Shari'ah without asking for detailed proofs, is established from the Qur'an, Sunnah and the practice of the Salaf, but that it is so fundamental and necessary for Islamic scholarship and practice to function at any level that its detractors have no option but to resort to *taqlid*, while repackaging it as "adherence to proof." It is a must-read for anyone wishing to understand the structure of Islamic scholarship and the weakness of the arguments presented by those who wish to deny the legitimacy and necessity of *taqlid*.

I preferred adhering to a literal translation rather than an explanatory one except where this was not possible, as I wished to preserve the language and style of the author's original work. I have included parentheses in squared brackets to indicate translator's insertions. I have taken liberties with titles and subtitles to make the format more reader-friendly. I have sourced and checked most of the quotations in the book using more recent editions of the works cited, and have provided references for Qur'anic verses and hadiths.

Zameelur Rahman

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*According to what is mentioned at the end of *Fawa'id fi 'Ulum al-Fiqh*, a draft of the book was completed on 1357 H (1938 CE), and "that was under the supervision of the foremost victor, the worker of wonders, the sage of this nation, the remover of obscurity, possessor of countless virtues, our patron, the *hafiz*, the proof, the trustworthy, the firm hadith-scholar, the exegete, the jurist, the saint, our master, Mawlana Muhammad Ashraf 'Ali al-Thanawi, may Allah extend his stay, and increase his perfection and beauty, and give all worlds the good fortune of his sacred breaths, and illuminate the hearts of the seekers of guidance with the lights of his pure soul." (Habib Ahmad al-Kiranawi, *Fawa'id fi 'Ulum al-Fiqh*, ed. Na'im Ashraf Nur Ahmad, 1414 H, Karachi: Idarat al-Qur'an, p. 305)

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Author's Introduction

In the worst of generations[1], a misguided group arose, insulting the Imams and criticising *taqlid*[2], and calling people to abandon it, although most of their invectives and all of their proofs are based on imitation (*taqlid*) of those who came before them, since when they say, "In such and such an issue, Abu Hanifah opposed a *sahih* (authentic) hadith," and you ask, "How do you know it is a *sahih* hadith?" they reply, "Hafiz [ibn Hajar al-'Asqalani] in *Fath* [*al-Bari*] authenticated it and so-and-so and so-and-so authenticated it." Do they not understand that since it is not permissible for them to imitate Abu Hanifah, how can it be permissible for them to imitate the likes of Ibn Hajar? Since you prohibit *taqlid*, why is it necessary for Abu Hanifah to do *taqlid* of Ibn Hajar and his likes in authenticating that which they authenticated and weakening that which they weakened? Why is it necessary for him to understand the hadith, assuming it is authentic, that which Ibn Hajar and others understood from it?

Therefore, these people are in reality stronger in imitation than the *muqallid*s, because the *muqallid*s only consider it necessary for a non-*mujtahid* to imitate a *mujtahid*, and these people consider it necessary for the *mujtahid* to imitate themselves by imitating those that they imitate even if he is a non-*mujtahid*. Moreover, they call people to abandon *taqlid* of the *mujtahid* Imams and deem it necessary to imitate them in authenticating what they authenticate and weakening what they weaken and understanding what they understand and saying what they say and permitting what they permit and prohibiting what they prohibit, in imitation of their predecessors, and cursing those they curse and praising those they praise. Although the ignorance of these people and their misguidance reach such a degree that their opinions and deeds are self-contradicting, since they criticise something in others and prefer something worse than it for themselves and prohibit something for others and deem something uglier necessary, such that any sane person will have no doubt about their ignorance and misguidance, their misgivings and deceptions, however, they have misled those who are unaware and have spread amongst them, and thus we saw fit to expose their deceptions.

Since the subject-matter of *ijtihad*[3] and *taqlid* is one of the greatest battlefields between us and them and is its foundation, we took up this discussion in this introduction [to *I'la al-Sunan*] in the most elaborate manner and most expressive speech because we saw that Ibn al-Qayyim who is the father of this kind of group spoke at length on this subject in *I'lam al-Muwaqqi'in* whereby he left no speech [in opposition to *taqlid*] for those who came after him. We called it *al-Din al-Qayyim* so it becomes an independent treatise on this subject and it is possible to circulate it independently for whoever wishes to circulate it as it is or in translation.

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[1] This is an indication to the hadith found in the two *Sahih*s of al-Bukhari and Muslim, "The best of people are my generation, then those who follow them, then those who follow them." (Muhammad ibn Isma'il al-Bukhari, *Sahih al-Bukhari*, ed. 'Abd al-Salam 'Allush, Riyadh: Maktabat al-Rushd, 1427 H/2006 CE, p. 496; Muslim ibn Hajjaj al-Qushayri, *Sahih Muslim*, ed. Nazar Muhammad al-Faryabi, Riyadh: Dar Tibah, 1427 H/2006 CE, pp. 1177-8) The hadith refers to the general deterioration of the condition of the Muslim community after the passage of the first few generations, which is why the author refers to the people of our latter times as "the worst of generations."

[2] Muhammad ibn 'Ali al-Shawkani wrote on the definition of *taqlid*: "As for *taqlid*, its foundation in language is taken from *qiladah* (garland) which is put around the neck of another and from this is garlanding the neck of a sacrificial offering (*taqlid al-hady*), so it is as though the *muqallid* made that ruling in which he imitated the *mujtahid* like a garland around the neck of the one he imitates. Technically it is acting upon the opinion of another without proof." (Muhammad ibn 'Ali al-Shawkani, *Irshad al-Fuhul*, ed. Abu Hafs Sami ibn al-'Arabi, Riyadh: Dar al-Fadilah, 1421 H/2000 CE, p. 1081) A slightly different technical definition which is more in keeping with the author's usage of "*taqlid*" was mentioned by Badr al-Din al-Zarakshi as follows: "Accepting another's opinion while ignorant of where he derived it from." (Muhammad ibn Bahadur al-Zarakshi, *al-Bahr al-Muhit fi Usul al-Fiqh*, ed. 'Abd al- Sattar Abu Ghuddah, 1413 H/1992 CE, Hurghada: Dar al-Safwah, 6:197)

[3] Badr al-Din al-Zarakshi wrote on the definition of *ijtihad*: "It is linguistically [on the verb pattern] *ifti'al* from *juhd* which is hardship and effort. This entails that this noun is specific to what contains hardship, so as to exclude from it necessary matters that are perceived immediately from the Shari'ah, since there is no difficulty in acquiring them and there is no doubt that they are from the rulings of the Shari'ah. Technically, it is expending effort to attain a practical rule of the Shari'ah by the method of deduction." (Al-Zarakshi, op. cit. 6:197).

So we say, by the grace of Allah:

The Conditions of *Ijtihad*

Ibn al-Qayyim said in *I'lam al-Muwaqqi'in*:

> Imam Ahmad said in the narration of his son, Salih: "When a man takes upon himself the responsibility of issuing fatwa, it is necessary for him to know the explanations (*wujuh*) of the Qur'an, know the authentic (*sahih*) chains of transmission and know the traditions (*sunan*)." He said in the narration of Abu al-Harith: "Fatwa is not permissible except for a man well-versed in the Book and Sunnah."
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> He said in the narration of Hanbal: "The one who issues fatwa must know the opinions of those who came before. Otherwise he may not issue fatwa." He said in the narration of Yusuf ibn Musa: "It is necessary on the man [who issues fatwa] to learn all that the people [of knowledge] differed on."
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> …
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> He said in the narration of Muhammad ibn 'Ubayd Allah ibn al-Munadi, when he heard a man asking him, "If a man memorises a hundred thousand hadiths, does he become a jurist (*faqih*)?" He said, "No." He said, "Then, two hundred thousand?" He said, "No." He said, "Then, three hundred thousand?" He said "No." He said, "Then, four hundred thousand?" He gestured with his hand "like so," moving it.
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> …
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> 'Abd Allah ibn Ahmad said: "I asked my father about a man who possesses books compiled on the sayings of Allah's Messenger (Allah bless him and grant him peace) and the Sahabah and Tabi'in but the man has no insight into the weak and abandoned hadith, nor the strong *isnad* (chain of narration) from the weak *isnad*, is it permissible for him to act upon what he pleases and choose therefrom, issuing fatwa upon it and acting upon it? He said: He cannot act upon it until he asks about what is admissible from them, in order that he acts upon an authentic command, having sought that from the people of knowledge.'"[1]

These are unequivocal statements from Ahmad, who was a *mujtahid* Imam and was the most pursuant of hadith from the people [of knowledge] and the one most acquainted with it according to Ibn al-Qayyim, directing you to the obligation of *taqlid* for the layperson of an 'alim who combines all the conditions of *ijtihad*, consisting of knowledge of the Book of Allah, the traditions of His Messenger (Allah bless him and grant him peace) and familiarity with the statements of the Salaf and the memorisation of four hundred thousand hadiths and other than that of which no mention is made here.

This is a clear refutation of Ibn al-Qayyim and his imitators who deem it necessary for everyone to make the Book and Sunnah a judge when the *mujtahid*s differ. Do they not understand that one who does not know, and needs to ask the people of knowledge, how can he arbitrate between the 'ulama, finding some of them wrong and some of them right? This matter is more manifest than it being hidden to one possessing the slightest understanding, so it is strange how it escaped the like of Ibn al-Qayyim.

[1] Ibn Qayyim al-Jawziyyah, *I'lam al-Muwaqqi'in*, ed. Abu 'Ubaydah Mashhur ibn Hasan Al Salman, 1423 H/2002 CE, Jeddah: Dar Ibn al-Jawzi, 6:115

Ibn al-Qayyim said in his aforementioned book after transmitting the abovementioned narration from Ibn al-Munadi:

> Abu Hafs said: Abu Ishaq said to me: "When I sat in the mosque of Mansur to issue fatwa, I mentioned this issue [i.e. the issue of memorising four hundred thousand hadiths before issuing fatwa], so a man said to me, 'You are such an individual who has not memorised this quantity, such that you can issue fatwa.' So I said to him, 'Allah protect you! Although I haven't memorised this quantity, I am indeed such an individual who issues fatwa to people according to the opinion of those who have memorised this quantity and more.'"[5]

This tells you that when a man is not from the people of fatwa and *ijtihad*, he must issue fatwa according to the opinion of a *mujtahid*. Ibn al-Qayyim also said in his aforementioned book:

> Al-Shafi'i said as was narrated from him by al-Khatib [al-Baghdadi] in his book *al-Faqih wa al-Mutafaqqih*[6]: "It is not permissible for anyone to issue fatwa in the religion of Allah, except a man well-acquainted with the Book of Allah: its abrogator (*nasikh*) and its abrogated (*mansukh*), its decisive (*muhkam*) and its ambiguous (*mutashabih*), its interpretation and its revelation, its Meccan and its Medinan [*sura*s], and what is meant thereby; and he must, thereafter, be insightful of the hadith of Allah's Messenger (Allah bless him and grant him peace) and of the abrogator and the abrogated, and have knowledge of hadith equivalent to the knowledge that he has of the Qur'an; and he must be insightful of language, insightful of poetry and all that is needed for [understanding] the Sunnah and the Qur'an; and he must use this with fairness (*insaf*); and he must, thereafter, be aware of the disagreements (*ikhtilaf*) of the people of the towns, and he must possess a natural talent thereafter. Once this is so, he may speak and issue fatwa on the lawful and the unlawful, and when this is not so, he may not issue fatwa."[7]

This is a comprehensive statement on the requirements of *ijtihad*. Imam al-Shafi'i was from the imams of hadith and is not of those called "the people of opinion" (*ashab al-ra'y*). This refutes those who call themselves "Ahl al-Hadith" in a far-reaching manner and falsifies them in regards to it [i.e. the requirements of *ijtihad*] in a devastating way.

Ibn al-Qayyim said in the aforementioned book:

> 'Ali ibn Shaqiq said: It was said to Ibn al-Mubarak: "When does a man issue fatwa?" He said: "When he is knowledgeable of transmission and insightful of opinion."
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> It was said to Yahya ibn Aktham: "When is it necessary for a man to issue fatwa?" He said: "When he is insightful of opinion and insightful of transmission."

Then Ibn al-Qayyim said:

> By "opinion" (*ra'y*), they meant correct analogy (*al-qiyas al-sahih*) and genuine properties and causes (*al-ma'ani wa al-'ilal al-sahihah*) which the lawgiver has attached to laws (*ahkam*) and made them effective, directly and inversely (*tardan wa 'aksan*).[8]

This statement is a clear refutation of these people who deem it necessary for every accountable individual to perform *ijtihad* by himself and arbitrate between the *mujtahid* 'ulama in declaring some

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[5] Ibid. 2:85
[6] Abu Bakr Ahmad ibn 'Ali al-Khatib al-Baghdadi, *Kitab al-Faqih wa al-Mutafaqqih*, ed. 'Adil ibn Yusuf al-'Azazi, 1417 H/1996 CE, Jeddah: Dar Ibn al-Jawzi, 2:331-2
[7] Ibid. 2:87
[8] Ibn al-Qayyim, op. cit. 2:88

wrong and others right, and acting upon hadith in translation, and even if unable [to understand] its translation also!

> Abu Nu'aym transmitted in *al-Hilyah* and al-Khatib in *Ruwatu Malik* from Khalaf ibn 'Umar: He said: I heard Malik ibn Anas say: "I did not issue fatwa until I asked those more learned than me if they believed I was qualified for that. I asked Rabi'ah and I asked Yahya ibn Sa'id, and they instructed me to [do] this." I [i.e. Khalaf ibn 'Umar] said to him: "O Abu 'Abd Allah! Had they prohibited you?" He said: "I would have refrained. It is not fitting for a man to consider himself qualified for something until he asks those more learned than him."[9]

> Abu Nu'aym transmitted from Abu Mus'ab: He said: I heard Malik say: "I did not issue fatwa until seventy scholars testified on my behalf that I am qualified for it."[10] End quote from *Tazyin al-Mamalik* by al-Suyuti.[11]

This is an unequivocal statement from Imam Malik that not everyone is qualified to issue fatwa, let alone arbitrate between the people of fatwa by declaring [some] wrong and [others] right; and since this is the case, one must seek fatwa from the 'ulama when he is not from the people of fatwa and *ijtihad*. There is a clear refutation in this of those fools who deem *ijtihad* necessary for everyone.

Thus, it is established from the responses of the imams of hadith and *fiqh*, that *ijtihad* is not permissible for the unqualified. Its people are those who combine all its conditions which you discovered in the statements of al-Shafi'i, Ahmad, Ibn al-Mubarak and Yahya ibn Aktham. As for [an individual] besides the people of *ijthad*, he has no option but to imitate the people of knowledge. It is thus established that the matter of *ijtihad* and *taqlid* is a matter inherited from the best of generations (*khayr al-qurun*)[12] and was not invented in the fourth century as these fools claim.

The Prevalence of *Taqlid* in the Time of the Sahabah

Ibn al-Qayyim said in his aforementioned book:

> Al-Sha'bi said: "Whoever it pleases to have confidence in issuing decrees (*qada'*), let him take the opinion of 'Umar."

> Mujahid said: "When people differ in anything, look to what 'Umar did, and adopt it."[13]

These are clear texts from al-Sha'bi and Mujahid on *taqlid*.

Ibn al-Qayyim said in his aforementioned book:

> Tawus said: "I met seventy of the companions of Allah's Messenger (Allah bless him and grant him peace), and when they disagreed on something, they would stop at the opinion of Ibn 'Abbas."

> …

> Muhammad ibn Jarir said: "There was none [amongst the Sahabah] who had known companions who codified his fatwa and his positions in *fiqh* (jurisprudence) besides Ibn

[9] Abu Nu'aym Ahmad ibn 'Abd Allah al-Asbahani, *Hilyat al-Awliya'*, 1409 H/ 1988, Beirut: Dar al-Kutub al-'Ilmiyyah, 6:316
[10] Ibid.
[11] Jalal al-Din al-Suyuti, *Tazyin al-Mamalik bi Manaqib al-Imam Malik*, ed. Hisham ibn Muhammad al-Hasani, 1431 H/2010 CE, Casablanca: Dar al-Rashad al-Hadithiyyah, p. 26
[12] This refers to the first three generations of Muslims, the Sahabah, Tabi'in and Tabi'i al-Tabi'in. See footnote 1.
[13] Ibn al-Qayyim, op. cit. 2:36

> Mas'ud, and he would leave his position and opinion in favour of the opinion of 'Umar, and he would [at times] come close to differing with him in some of his positions, and would then go back on his own opinion in favour of his opinion."
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> Al-Sha'bi said: "'Abd Allah would not perform *qunut* (supplication) [in the Fajr prayer]," and he said: "Had 'Umar performed *qunut*, 'Abd Allah would have peformed *qunut*."[14]

He also said:

> Al-A'mash said regarding Ibrahim [al-Nakha'i]: "He would not divert from the opinion of 'Umar and 'Abd Allah [ibn Mas'ud] when they agreed, and when they disagreed, the opinion of 'Abd Allah was more appealing to him because it was more subtle."[15]

He said on page 5:

> Those of the companions of Allah's Messenger (Allah bless him and grant him peace) from whom fatwa was preserved are some hundred and thirty souls, that range between men and women and the *mukthirun* (those who issued fatwa in large numbers) from them are seven: 'Umar ibn al-Khattab, 'Ali ibn Abi Talib, 'Abd Allah ibn Mas'ud, 'A'ishah Mother of the Believers, Zayd ibn Thabit, 'Abd Allah ibn 'Abbas and 'Abd Allah ibn 'Umar.[16]

These texts show you that the way of *taqlid* was prevalent amongst the Sahabah and Tabi'in, to such a degree that some *mujtahid*s imitated some others from them, let alone those unqualified for *ijtihad*. Rather, the Prophet (Allah bless him and grant him peace) instructed them to do *taqlid* when he commanded them to follow the Sunnah of the righteous caliphs. Rather, Allah commanded them to do *taqlid* when He said: "Ask the people of remembrance if you do not know." (16:43)

Thus, the statement that *taqlid* is an innovation (*bid'ah*) that appeared in the fourth century or an innovation that appeared in the sixth century is concealment of the truth (*kitman*), and the truth is *taqlid* is an inherited practice from the time of Allah's Messenger (Allah bless him and grant him peace) to this time of ours, and is established from the texts, some of which we cited, and some of which we left out, fearing prolixity. After this, we turn to the speech of Ibn al-Qayyim. Hence, we say:

Ibn al-Qayyim's Categorisation of *Taqlid*

He divided *taqlid* into three categories: obligatory *taqlid*, permissible *taqlid* and prohibited *taqlid*. He did not elaborate on each category, although it is understood from his discussion that he made *taqlid* of the narrators from Allah's Messenger (Allah bless him and grant him peace) and *taqlid* of witnesses in testimonies and *taqlid* of the reporters of narrations with [its] conditions, obligatory; and he made *taqlid* of an 'alim of one more learned than himself in which no clear text is manifest, permissible *taqlid*; and he made *taqlid* of an 'alim in which a clear text is found, prohibited *taqlid*.

This categorisation is worthless because the one who imitates a narrator only imitates him because the narrator is aware and the one narrated to is unaware. Similarly, the judge [who] relies on witnesses in testimonies only relies on them because he is ignorant of what transpired and they are aware of it. Likewise, the one informed does not imitate but because he is ignorant and the informer is aware. In the same way, when the 'alim imitates one more learned than himself, he only imitates him because of his knowledge that he is ignorant of the ruling and his [mere] knowledge of the text is not regarded [as

[14] Ibid. 2:35-7
[15] Ibid. 2:29
[16] Ibid. 2:18

sufficient] at all, since you are aware from the statements of Ahmad, al-Shafi'i and Malik that a layperson is not qualified to issue fatwa from the text, rather he is required to ask an 'alim, rather not every 'alim is qualified for such [a task] until he combines all the conditions of *ijtihad* which they mentioned. Since the basis of the three types of *taqlid* is ignorance or the legal disregard of one's knowledge, this categorisation is meaningless. Nor is making *taqlid* of an 'alim despite the existence of a text alway prohibited. After this brief statement, we turn to a detailed refutation of his arguments. Thus, we say:

He argued for the invalidation of *taqlid* and its being blameworthy using verses [of the Qur'an], hadiths, the statements of Sahabah and Tabi'in, and the statements of the *mujtahid*s, without understanding the purport [of these statements], so we will draw attention to his errors, and we say:

Refutation of Ibn al-Qayyim's Scriptural Arguments against *Taqlid*

He argued for the invalidation of *taqlid* using His (Exalted is He) statement, "And when it is said unto them: Follow that which Allah has revealed, they say: We follow that wherein we found our fathers. What! Even though their fathers were wholly unintelligent and had no guidance?" (2:170) and His (Exalted is He) statement, "And even so We sent not a warner before you into any township but its luxurious ones said: Verily, we found our fathers following a religion, and we are following their footprints. He said: What! Even though I bring you better guidance than that which you found your fathers following? They answered: Verily, in what you bring we are disbelievers." (43:23-4) and His (Exalted is He) statement, "And when it is said unto them: Come unto that which Allah has revealed and unto the Messenger, they say: Enough for us is that wherein we found our fathers. What! Even though their fathers had no knowledge whatsoever, and no guidance?" (5:104). He said [after quoting these verses]:

> This is frequent in the Qur'an, wherein those who turn from what Allah revealed and are content with the *taqlid* of forefathers are condemned.[17]

Then he said:

> If it is said: "He only condemned one who imitated the disbelievers and his forefathers who were wholly unintelligent and had no guidance, and did not condemn one who imitated the rightly-guided 'ulama, rather he commanded [us] to ask the people of remembrance who are the people of knowledge, and that is *taqlid* of them, as He (Exalted is He) said, 'Ask the people of remembrance if you do not know,' (16:43) and this is *taqlid* of one who does not know of one who does know."
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> The answer is that He (Glorified is He) condemned those who turn away from what He revealed in favour of the imitation of forefathers, and this degree of *taqlid* is from that which the Salaf and the four Imams agreed on it being condemned and prohibited. As for the *taqlid* of one who expends his effort in following what Allah revealed while part of it is hidden to him, so he imitates therein one who is more learned than himself, then this is praiseworthy, not blameworthy, and is rewarded, not sinful.[18]

This is an incorrect statement:

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[17] Ibid. 3:448
[18] Ibid.

Firstly, because Allah (Exalted is He) condemned *taqlid* due to opposition to the established truth and did not condemn it due to adherence to truth, rather He necessitated this, since He necessitated obedience to the Messenger (Allah bless him and grant him peace) and those of authority from them (Qur'an 4:59), and those of authority include rulers and 'ulama as is accepted by him [i.e. Ibn al-Qayyim]. Is this [anything] besides *taqlid* of them? And since *taqlid* is two types: *taqlid* in opposition to the truth and *taqlid* in adherence to the truth, and the first is prohibited and the second is obligatory, arguing with the verses indicating the prohibition of the first type of *taqlid* to [prove] the prohibition of the second type thereof is no doubt [a type] of mixing the truth with falsehood[19]. Allah protect us from wrong understanding and the tribulation of ignorance.

Secondly, because he said, "As for the *taqlid* of one who expends his effort in following what Allah revealed while part of it is hidden to him, so he imitates therein one who is more learned than himself, then this is praiseworthy, not blameworthy," he will be asked: "When part of what Allah revealed is hidden to an individual and he imitates one who is more learned than himself, is he following what Allah revealed or not?" If he answers, "No," he will be asked, "Then how is it praiseworthy and not blameworthy *taqlid*?" and if he answers, "Yes," it will be said to him: "It is understood from your statement that following that which Allah revealed with respect to one who falls short in comprehending what Allah revealed from the perspective of deliberation (*nazar*) and deduction (*istinbat*) is nothing besides *taqlid* of one who is more knowledgeable than himself, so how have you disproved *taqlid*, when one who imitates another only imitates him because of his recognition of his own limitations in comprehending what Allah revealed from the perspective of deliberation and deduction? Hence, this statement of yours contradicts your claim and is a retraction to the truth in a manner you did not perceive." So understand this.

Then he argued using His (Exalted is He) statement, "Follow not that of which you have no knowledge" (17:36) and he said *taqlid* is not knowledge by agreement[20]. This is also baseless because by this he establishes a contradiction between His (Exalted is He) statement, "Ask the people of remembrance if you do not know" (16:43) – since in this He made it necessary for the ignorant to do *taqlid* of an 'alim – and His (Exalted is He) statement, "Follow not that of which you have no knowledge," wherein He forbade *taqlid* due to it not being knowledge by agreement of the people of knowledge, and Allah is free from there being contradiction and opposition between His two statements. It is therefore incumbent to say: Including *taqlid* in His (Exalted is He) statement, "Follow not that of which you have no knowledge" is ignorance [issuing] from the one who makes this deduction. Moreover, this also contradicts his own speech because he made some *taqlid* praiseworthy, not blameworthy, while all *taqlid* is not knowledge according to him, and making some parts of *taqlid* praiseworthy despite it not being knowledge, and making it forbidden because it is not knowledge, is a contradiction and incoherence from him. This is nothing but the misfortune of abandoning *taqlid*.

The he argued using His (Exalted is He) statement, "Say: My Lord forbids only indecencies, such of them as are apparent and such as are within, and sin and wrongful oppression, and that you associate with Allah that for which no warrant has been revealed, and that you tell concerning Allah that which you know not." (7:33) This too is baseless because if *taqlid* of an 'alim was from the category of speaking about Allah of which one does not know, some parts of *taqlid* would not be praiseworthy, and His (Exalted is He) statement, "Ask the people of remembrance if you do not know" (16:43) would be meaningless.

[19] This is an allusion to Qur'an 2:42
[20] Ibn al-Qayyim, op. cit. 3:448

He also argued using His (Exalted is He) statement, "Follow that which is sent down unto you from your Lord, and follow no protecting friends beside Him," (7:3) [and he said:]

> Thus, He commanded adherence exclusively to what has been sent down and the *muqallid* has no knowledge that this [i.e. what he follows] is what was sent down, and if a proof in conflict with the opinion of the one he imitates becomes clear to him, then he knows that his *taqlid* in opposition to it is adherence to [something] besides what has been sent down.[21]

This too is baseless because you are aware that adherence to what Allah revealed has two methods: the first is deliberation and deduction; and the second is *taqlid*. The first is the function of the 'alim and the second is the function of the ignorant person. Thus, *taqlid* is included in His (Exalted is He) statement, "Follow that which is sent down unto you from your Lord."

His statement, "The *muqallid* has no knowledge that this is what was sent down," is an error because although he does not have substantive knowledge (*'ilm tahqiqi*), imitative knowledge (*al-'ilm al-taqlidi*) has been acquired by him which is knowledge legally regarded due to His (Exalted is He) statement, "Ask the people of remembrance if you do not know" (16:43) and other textual evidences and the consensus of the Salaf.

His statement, "If a proof in conflict with the opinion of the one he imitates becomes clear to him, then he knows that his *taqlid* in opposition to it is adherence to [something] besides what has been sent down," is baseless because the knowledge acquired by an ignorant person by means of deliberation and deduction does not equate to knowledge due to the hadith of Jabir:

> We left on a journey and a stone fell on a man amongst us and injured his head. Then he experienced a nocturnal emission [which necessitates a ritual bath (*ghusl*)], so he asked his companions saying, "Can you find for me a concession to perform *tayammum* (dry ablution)?" They said, "We have not found any concession for you while you are capable of [using] water[22]." Thereupon he bathed and died. When we came to the Prophet (Allah bless him and grant him peace), he was informed of this, and he said, "They killed him, Allah kill them! Do they not ask when they do not know? For indeed the only remedy for ignorance is to ask."[23]

Hence, acting on one's opinion must be adherence to [something] besides what has been sent down, not *taqlid* of an 'alim. So understand.

He also argued using His (Exalted is He) statement, "And if you have a dispute concerning any matter, refer it to Allah and the Messenger" (4:59) and he said:

> Thus, He (Glorified is He) forbade us from referring to other than Him and other than His Messenger and this nullifies *taqlid*.[24]

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[21] Ibid.

[22] Their opinion was based on a literal understanding of the verse of *tayammum* which states: "If you are sick or on a journey, or one of you come from the privy, or you have touched women, and you cannot find water, betake yourselves to pure earth and wipe your faces and your hands therewith." (Qur'an 5:6)

[23] Abu Dawud narrated it in his *Sunan* (Abu Dawud Sulayman ibn al-Ash'ath al-Sijistani, *Sunan Abi Dawud*, ed. Muhammad 'Awwamah, 1419 H/1998 CE, Mecca: al-Maktabat al-Makkiyyah, 1:316). Although the chain of this particular narration is weak due to the narrator al-Zubayr ibn Khurayq, a number of supporting narrations add strength to it. The hadith is narrated from Ibn 'Abbas without the sentence "do they not ask when they do not know?" through a chain graded *hasan* by al-Albani (Muhammad ibn Yazid al-Qazwini ibn Majah, *Sunan Ibn Majah*, ed. Abu 'Ubaydah Mashhur ibn Hasan Al Salman, Riyadh: Maktabat al-Ma'arif, pp. 112-3)

[24] Ibn al-Qayyim, op. cit. 3:448

This too is baseless because referring to a scholar of the laws of Allah and His Messenger is referral to Allah and His Messenger, so it does not nullify *taqlid*. If what he said were true, referral to al-Bukhari and Muslim and their likes would also be null and void, and this speaker does not accept this. So understand this.

He also argued using His (Exalted is He) statement, "Or you thought that you would be left [in peace] when Allah did not yet know [i.e. did not expose] those of you who strive, choosing for a confidant none but Allah and His Messenger and the believers?" (9:16). He said:

> There is no confidant (*walijah*) greater than one who makes a specific man a standard over the speech of Allah, the speech of His Messenger and the speech of the entire ummah. He prefers him over all of them and he subjects the Book of Allah and the Sunnah of His Messenger and the consensus of the ummah to his opinion, so whatever agrees with it from them, he accepts it because it concurs with his opinion, and whatever opposes it from them he gently rejects it and seeks various ways out from it. If this is not a confidant we do not know what a confidant is![25]

This too is baseless because the *muqallid* does not consider his Imam as he says, rather he imitates him due to his belief that his opinion unveils the speech of Allah and the Messenger, not because it is a standard over the speech of Allah and the Messenger whereby he accepts whatever he wishes and rejects whatever he wishes. Hence, he is not a confidant, and even if he is a confidant, he is amongst the believers, so he has not taken [any] besides Allah, the Messenger and the believers as a confidant.

He also argued using His (Exalted is He) statement, "On the day when their faces are turned over in the Fire, they say: Oh, would that we had obeyed Allah and had obeyed His Messenger! And they say: Our Lord! Verily, we obeyed our chiefs and great men, and they misled us from the Way." (33:66-7) He said:

> This is an unequivocal text on the nullification of *taqlid*.
>
> If it is said: "There is only a condemnation in this [verse] of one who imitates those who misled him from the [right] path, and as for those who guide him to the [right] path, where has Allah condemned their imitation?" It will be said: "The answer to this question is in the question itself, since the servant will not be guided until he follows what Allah has revealed unto His Messenger, so if this *muqallid* is aware of what Allah revealed unto His Messenger, he is guided and not a *muqallid*, and if he is not aware of what Allah revealed unto His Messenger, he is ignorant and misguided by his [own] admission regarding himself, for how is he to know that he is on right-guidance in his *taqlid*?" This is the answer to every question they bring in this matter, that they imitate only the people of right-guidance so by imitation of them they are on right-guidance.
>
> If it is said: "You agree that the Imams that are followed in the religion are upon right-guidance, so their *muqallid*s are certainly upon right-guidance because they are treading behind them." It will be said: "Their treading behind them absolutely negates their imitation of them because their method was adherence to proof and prohibition of *taqlid*, so whoever abandons proof and does what they forbade and that which Allah and His Messenger forbade before them, then he is not on their path and he is from those who oppose them; and only one who adheres to proof and acquiesces to evidence and does not adopt a specific man besides the Messenger (Allah bless him and grant him peace) as preferred over the Book and Sunnah, subjecting them to his opinions, is on their path." By this, the falsity, error and deception of the understanding of one

[25] Ibid. 3:448-9

> who considers *taqlid* to be *ittiba'* (adherence) becomes clear. Rather, it is different to *ittiba'*. Allah and His Messenger and the people of knowledge have differentiated between them [i.e. *taqlid* and *ittiba'*] just as the literal meanings distinguish between then, since *ittiba'* is treading the path of the one followed and producing the like of what he produced.[26]

This is flowery speech, and baseless from its beginning to its end:

Firstly, because the meaning of His statement, "Our Lord! Verily, we obeyed our chiefs and great men, and they misled us from the Way" is that our chiefs and our great men were misguided and were not guided, so they called us to their misguided path and we responded and were thus misguided. Hence, this is not included in what we are discussing because our chiefs and our great ones are not upon misguidance; rather they are upon guidance as is also acknowledged by this speaker, so how can the verse be included in what we are discussing?

Secondly, because he said, "The servant will not be guided until he follows what Allah has revealed unto His Messenger…," and although this is true, you are aware that following what Allah revealed to His Messenger is sometimes by substantiation (*tahqiq*) and sometimes by imitation (*taqlid*) as this speaker also recognised in [his identification of a] *taqlid* which he called praiseworthy, not blameworthy. Hence, although this *muqallid* does not know what Allah revealed to His Messenger by his own research, he does know it through imitation of his Imam because his Imam gives him the knowledge that that which he said is what Allah has revealed to His Messenger even if it may be speculative and a judgement possibly in error. Hence, he is not ignorant and misguided by his [own] admission regarding himself as this speaker claims.

Thirdly, because his statement, "Their treading behind them absolutely negates their imitation of them…," is baseless because it is not established from any of the Imams that he prohibited his imitation, nor is it established from Allah and His Messenger, rather it is a mere suggestion from the soul of this speaker. And what he said, that their method was adherence to proof so whoever follows proof treads their path and not those who imitate them, is pure sophistry, because before reaching the rank of *ijtihad* their method was also *taqlid*, rather even after reaching this rank they would imitate in some issues those more learned than them when they did not find a proof in the matter. Hence, the *muqallid* who does not reach the rank of *ijtihad* certainly follows their method because their method was adherence to proof after reaching the rank of *ijtihad* and knowing the proofs, and *taqlid* in other than this condition, and the *muqallid* [does] exactly this, so how is he not treading their path?

Fourthly, because he said, "Only one who adheres to proof and acquiesces to evidence and does not adopt a specific man besides the Messenger (Allah bless him and grant him peace) as preferred over the Book and the Sunnah, subjecting them to his opinion, is on their path," which is baseless because it gives the impression that the Messenger is preferred over the Book and Sunnah, and the matter is not so because he (Allah bless him and grant him peace) would follow revelation and is not preferred over it.

Fifthly, because he claimed there is a difference between *taqlid* and *ittiba'* and he said, "*Ittiba'* is treading the path of the one followed and producing the like of what he produced," and he did not clarify the meaning of *taqlid*. If what he said were correct, the people of hadith would not be doing *ittiba'* of the Messenger because his method was following revelation while their method is following what so-and-so and so-and-so narrated and so-and-so and so-and-so authenticated, and neither of these two methods is identical to the other; moreover, they would not be doing *ittiba'* of the imams of hadith

[26] Ibid. 3:449-50

because their method was authenticating hadith by their opinion and judgement, and the method of these [later scholars of hadith] is authenticating it through *taqlid* of them. Hence, it is clear that what he said is sophistry.

Then he argued using His statement, "They have taken as lords beside Allah their rabbis and their monks" (9:31) which is a baseless proof because the *taqlid* which we are discussing is not included in their *taqlid* of rabbis and monks because they would give them monopoly over permitting and prohibiting as opposed to the *muqallid*s because they do not give their Imams such [authority], rather they accept their opinions due to their belief that they unveil the speech of Allah and the Messenger.

He also argued using His (Exalted is He) statement, "What are these images unto which you are devoted? They said: We found our fathers worshippers of them." (21:52-3) Then he said:

> The 'ulama argued using these verses for the nullification of *taqlid*, and their [i.e. those who are condemned in these verses] disbelief did not prevent them [i.e. the 'ulama] from arguing using these verses, because the comparison does not arise from the perspective of the disbelief of one of them and the belief of the other, but the comparison between the two *taqlid*s only arises from the absence of proof for the *muqallid*. Just as if one were to imitate a man and disbelieve, and imitate another and sin, and imitate another in an issue and miss its point, every one of them would be condemned for imitation without proof because all of this is *taqlid*, each resembling the other, even if the sins differ therein.[27]

This is baseless speech because condemnation of those *muqallid*s is not due to imitation without proof *per se*, for otherwise the method of *ittiba'* (adherence) would be null and its path would be spoiled, rather [they were condemned] because they followed their misguided and misguiding forefathers and made it a means to reject the established truth, and this is not found in the *taqlid* of the *muqallid*s of their rightly-guided and guiding imams due to adherence to the truth. Hence, analogising one with the other is analogising an opposite with [its] opposite. It is strange from these [non-*muqallid*s] that they condemn Qiyas (analogy) and juristic opinion (*ra'y*) while they themselves make such obviously false analogies, and they condemn *taqlid* while they do *taqlid* of 'ulama who made such [false] analogies.

He also argued using his (Allah bless him and grant him peace) statement, "Beware the slip of an 'alim"[28] and the hadith, "Verily, the worst of what I fear for my ummah are three: the slip of an 'alim, the hypocrite's argumentation with the Qur'an and the material world severing your necks"[29] and he said:

> It is acknowledged that what is feared from the slip of an 'alim is imitating him therein, since were it not for *taqlid*, the slip of an 'alim would not be feared.[30]

This is baseless because his statement "Beware the slip of an 'alim" is addressed to one who is aware of the slip because being aware in the absence of knowledge is not possible, so it is not addressed to *muqallid*s who do not recognise a slip from a correct statement. This is when the source of the slip is *ijtihad*, and if its source is the passions of the soul, although the *muqallid* may also recognise this, he, however, does not imitate him therein. Hence, the hadith does not interfere with the *taqlid* being discussed at all.

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[27] Ibid. 3:452-53

[28] Al-Bayhaqi narrated it in his *al-Sunan al-Kubra* (Abu Bakr Ahmad ibn al-Husayn al-Bayhaqi, *al-Sunan al-Kubra*, ed. Muhammad 'Abd al-Qadir 'Ata, Beirut: Dar al-Kutub al-'Ilmiyyah, 10:356). The hadith is weak (*da'if*) due to the narrator Kathir ibn 'Abd Allah ibn 'Amr ibn 'Awf who is *matruk* (abandoned) as a narrator.

[29] Al-Bayhaqi narrated it in his *Shu'ab al-Iman* (Abu Bakr Ahmad ibn al-Husayn al-Bayhaqi, *al-Jami' li Shu'ab al-Iman*, ed. 'Abd al-'Ali 'Abd al-Hamid Hamid, 1423 H/2003 CE, Riyadh: Maktabat al-Rushd, 10:356) and al-Khatib al-Baghdadi in his *al-Faqih wa al-Mutafaqqih* (al-Khatib al-Baghdadi, op. cit. 2:26). The hadith is weak due to the narrator Yazid ibn Abi Ziyad.

[30] Ibn al-Qayyim, op. cit. 3:454

As for his statement, "Verily, the worst of what I fear for my ummah are three: the slip of an 'alim, the hypocrite's argumentation with the Qur'an and the material world severing your necks," there is no prohibition of *taqlid* therein, rather a warning to 'ulama to be careful when issuing fatwa. There is [in fact] approval of *taqlid* in this because if *taqlid* was prohibited, fearing the slip of an 'alim would be meaningless. Moreover, since the slip of an 'alim is feared, the slip of an ignorant person acting on his own *ijtihad* is feared even more as is not hidden, so how can the lawgiver permit the ignorant person to act on his personal *ijtihad*?

He also argued using the statement of Ibn Mas'ud, "Awake in the morning an 'alim or a student and do not awake in the morning a minion (*immi'ah*)," and he is the one who makes his religion subservient to [the religion of] others.[31] This is also baseless because its explanation according to what was narrated by this speaker himself from him [i.e. ibn Mas'ud] is that he said, "None of you should imitate a man in his religion [such that] if he believes, he believes and if he disbelieves, he disbelieves, for indeed there is no example in evil,"[32] so this *taqlid* is not included in what are discussing, and no one from the Muslims believes it is obligatory or permissible.

This is [also] the meaning of the statement of 'Ali, "Beware of taking the path (*istinan*) of men" as is indicated by his statement after it, "For indeed a man performs the deeds of the inhabitants of the Garden, then he turns over due to Allah's knowledge about him, so he performs the deeds of the inhabitants of the Fire and dies while from the inhabitants of the Fire; and indeed a man performs the deeds of the inhabitants of the Fire, then he turns over due to Allah's knowledge about him, so he performs the deeds of the inhabitants of the Garden and dies while from the inhabitants of the Garden And if you must do [so], [take the path of] the dead, not the living."[33] Hence, this too is not included in what we are discussing. His statement at the end, "If you must do [so], [take the path of] the dead, not the living," proves the permissibility of *taqlid* since if it was prohibited, he would not permit it for the dead.

He also argued using the statement of 'Umar, "Verily, your talk is the worst talk. Verily, your speech is the worst speech. For indeed you speak with people until it is said, 'So-and-so said' and 'so-and-so said,' while the Book of Allah is neglected. Whoever from you stands [for something], he should stand for the Book of Allah, and otherwise, he should sit."[34] There is no proof for them in this at all since there is no mention therein of *taqlid*, neither negatively nor positively.

Likewise, there is no proof for them in the statement of 'Ali, "There are three [types of] men: a lordly 'alim, a student on the path to salvation, and the foolish commoners, followers of every caw, swerving with every shouter,"[35] since there is no prohibition therein of *taqlid* of the *mujtahid* Imams as is not hidden.

Likewise, there is no proof for them in his (Allah bless him and grant him peace) statement, "Verily, Allah will not take knowledge by snatching it from men, but He will take knowledge by taking the 'ulama until He leaves no 'alim, [and then] people will adopt the ignorant as leaders, so they will be

[31] Abu Bakr ibn Abi Shaybah narrated it in his *Musannaf* (Abu Bakr 'Abd Allah ibn Muhammad ibn Abi Shaybah, *al-Musannaf*, ed. Muhammad 'Awwamah, 1427 H/2006 CE, Jeddah: Dar al-Qiblah, 13:338)
[32] Ibn al-Qayyim, op. cit. 3:461. After mentioning this narration in his *Majma' al-Zawa'id*, al-Haythami commented: "It was narrated by al-Tabrani in *al-Kabir* and its narrators are the narrators of the *Sahih*." (Nur al-Din 'Ali ibn Abi Bakr, *Majma' al-Zawa'id wa Manba' al-Fawa'id*, ed. 'Abd Allah Muhammad al-Darwish, 1414 H/1994 CE, Beirut: Dar al-Fikr, 1:433)
[33] Ibn 'Abd al-Barr narrated it in *Jami' Bayan al-'Ilm wa Fadlih* (Abu 'Umar Yusuf ibn 'Abd al-Barr, *Jami' Bayan al-'Ilm wa Fadlih*, ed. Abu al-Ashbal al-Zuhayri, 1414 H/1994 CE, Jeddah: Dar Ibn al-Jawzi, p. 987)
[34] Ibn al-Qayyim, op. cit. 3:458. The editor of *I'lam al-Muwaqqi'in* references this narration to *al-Tarikh* by Abu Zur'ah al-Dimashqi, and states its chain of narration is *sahih*.
[35] Ibid. 3:459. Ibn al-Qayyim quotes Ibn 'Abd al-Barr as stating regarding this narration, "It is a well-known (*mashhur*) hadith according to the scholars of hadith, not in need of a chain of narration due to its popularity (*shuhrah*) amongst them."

asked and will answer without knowledge, so will be misguided and will misguide [others],"[36] because there is no mention therein of *taqlid*. And that which is said, that the fatwa of a *muqallid* is a fatwa without knowledge, I say: It is incorrect because it is not the fatwa of that *muqallid*, rather it is the fatwa of a *mujtahid* 'alim and the *muqallid* is only its transmitter. Moreover, this hadith proves the permissibility of *taqlid* because there is an indication in it of the permissibility of taking 'ulama as leaders and this is nothing besides *taqlid*.

Likewise, his (Allah bless him and grant him peace) statement, "Whoever is issued a fatwa without basis, indeed its sin will only be on the one who issued it"[37] is a proof for the permissibility of *taqlid* since if *taqlid* was not permissible, its sin would not be on the mufti, rather [its sin would be] on the one seeking fatwa since he imitated him in the fatwa and committed a prohibited act. There is no proof in this for the impermissibility of *taqlid* as claimed by this speaker. He said:

> There is proof in this for the prohibition of issuing fatwa by means of *taqlid* since it is issuance of fatwa without basis, since "basis" (*thabt*) is a proof by which a ruling is established, by agreement of the people.[38]

Because the one issuing fatwa is in reality the Imam who is the proof and the *muqallid* is a transmitter of his fatwa and the Imam does not issue fatwa without sound basis, the fatwa of the *muqallid* is based on a sound basis and is not without basis as claimed by this speaker.

Since the arguments of these people are as you know [i.e. flawed and weak], how is it possible for us to permit *ijtihad* for everyone and prohibit *taqlid* for them, and permit for one to say in the religion of Allah whatever he pleases, while misguided and misguiding?

Refutation of Ibn al-Qayyim's Rational Arguments against *Taqlid*

Then he argued using a rational proof, saying:

> It will be said to one who passes judgement based on *taqlid*: "Do you have a proof for what you passed judgement on?" If he says: "Yes," *taqlid* is negated because the proof necessitated that [judgement] for him, not *taqlid*, and if he says: "I passed judgement on it without proof," it will be said to him: "Then why have you spilt blood, permitted private parts [i.e. legitimised sexual relations] and destroyed properties, when Allah has forbidden them except with proof? Allah (Exalted is He) said 'You have no authority for this' (10:68) i.e. proof for this."[39]

This is sophistry because the *muqallid* can say: "I passed judgement on it using a proof which is the statement of the *mujtahid*," and if they say: "How did you choose his opinion, besides others?" he will say: "It is not my responsibility to collect all the statements of all the 'ulama because if that was in order to select the best and most superior [opinion] from them, that is not from the task of the *muqallid*, rather it is the task of the *mujtahid*, and if it is for other than that, what benefit is there in this endeavour? So I preferred his statement because in selecting it there is sufficiency, just as when one chooses a doctor for treatment, it will not be said to him: 'Why did you choose this doctor over others?' because he will say: 'There is sufficiency in choosing him, so I chose him.'"

Then he said:

[36] Al-Bukhari and Muslim narrated it in their *Sahih*s (Al-Bukhari, op. cit. p. 23, Muslim, op. cit. pp. 1232-3)
[37] Abu Dawud and Ibn Majah narrated it with sound chains (Abu Dawud op. cit. 4:243; Ibn Majah, op. cit. p. 23)
[38] Ibn al-Qayyim, op. cit. 3:462
[39] Ibid. 3:462-3

> As for one who does *taqlid*, in that which befalls him of the laws of the Shari'ah, of an 'alim whose scholarship he assents to, so he produces therein what he informed him, then he is excused because he has fulfilled what was obligatory upon him and has fulfilled what was necessary for him in what befell him due to his ignorance. It is necessary for him to do *taqlid* of an 'alim in that which he is ignorant due to the consensus that a blind-man is to imitate one in whose report he has confidence with respect to the Qibla (direction of prayer) because he is not able to do more than that.
>
> However, is it permitted for one whose condition this is to issue fatwa in the legislations of Allah's religion, such that he moves others to legitimising private parts, spilling blood, making slaves and removing possessions and transferring them to [one] who does not own them, using [as proof] an opinion, the authenticity of which he does not know and a proof for which has not been substantiated for him, while he agrees that the one who said it errs and is right, and that those who disputed him in it may be correct in what they disputed with him? So, if fatwa is permitted for the one who is ignorant of the basis and significance [of rulings] due to his memorisation of the peripheral laws [of a *madhhab*], it would entail that it is permissible for the laypeople, and this is sufficient as ignorance and rejection of the Qur'an. Allah (Exalted is He) said, "Follow not that of which you have no knowledge." (17:36)[40]

Indeed in this speech he has retracted [from his earlier position] to the truth since he permits *taqlid* of an 'alim for the layperson and he nullified his proofs which he erected in invalidating *taqlid* in the religion of Allah. All praise is due to Allah for that.

However, he spoke about the permissibility of issuing fatwa on behalf of another, so we say: The condition which makes it permissible for him to act on the fatwa of an 'alim despite his knowledge that the 'alim errs and is right and that those who disputed him in it may be correct in what they disputed with him, and despite his ignorance of the accuracy of his opinion and his incapacity to substantiate it, is what makes it permissible for him to issue fatwa according to his opinion to another who is ignorant like himself, just as a blind man can give information about the Qiblah to one who is [blind] like him, relying on the report of a seeing man, since the permission to act and the prohibition from issuing fatwa is arbitrary.

As for his statement, "it would entail that it is permissible for the laypeople," [the fallacy] in this is that it is not assured from them [i.e. laypeople] that they are using the opinion of a *mujtahid* in its due place and are observing its conditions, so this does not entail permission for them. Yes, whoever this is assured from, there is no dispute in its permission.

As for his statement that there is in this a rejection of the Qur'an since He said, "Follow not that of which you have no knowledge," (17:36) [the fallacy] in this is that they sometimes adduce it as proof for the prohibition of the essence of *taqlid* and sometimes they exclude the essence of *taqlid* from it and adduce it as proof for the prohibition of issuing fatwa by *taqlid*, so we do not know which of their statements we should accept and on which of their opinions we should rely?

So look, dear insightful onlooker, at these "*mujtahid*s," how they contradict themselves in their opinions and fatwas in one issue at one time, and despite this, they consider it necessary for the ummah to do *taqlid* of themselves in abandoning *taqlid*, and open for them the doors of following desire, ignorance and misguidance.

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[40] Ibid. 3:466

Refutation of Ibn al-Qayyim's Arguments against *Taqlid* from the Statements of the Imams

Then he argued for the invalidation of *taqlid* using the statements of the Imams, saying:

> The four Imams have indeed forbidden *taqlid* of themselves and they condemned one who accepts their statements without proof. Thus, al-Shafi'i said, "The likeness of the one who seeks knowledge without proof is like the one who gathers wood at night (*hatibi layl*), carrying a bundle of wood in which is a snake that bites him while he is unaware." Al-Bayhaqi related it[41]. Al-Muzani [in the introduction to his *Mukhtasar*] said: "I condensed this from the knowledge of al-Shafi'i and from the import of his speech in order to make it accessible for those who desire it, although I inform them that he forbade *taqlid* of himself and *taqlid* of others, in order to examine it for the sake of their religion and take precaution therein for himself."[42][43]

There is no proof in this [i.e. the first statement] for him because there is no prohibition of *taqlid* in what he narrated from al-Shafi'i. If we said "there is encouragement of *taqlid* therein" it would be closer [to the truth] because, for the *mujtahid*, "proof" is the Book, the Sunnah, Ijma' (consensus) and Qiyas (analogy) and, for the non-*mujtahid*, it is the statement of a knowledgeable insightful *mujtahid*. However, when he [i.e. a non-*mujtahid*] performs *ijtihad* and intends to adhere to proof, it will not be assured from him that he [does not] believe non-proof to be proof just as one who gathers wood at night takes hold of a snake believing it to be wood and it bites him. The likeness of a *mujtahid* is like a skilled guide, treading the path using his own insight, and the likeness of a *muqallid* is like one unaware of the path, treading behind a skilled guide, and the likeness of a non-*mujtahid* doing *taqlid* of himself is like one who gathers wood at night. Hence, this is a proof for us not for him.

As for his statement that al-Shafi'i forbade *taqlid* of himself and *taqlid* of others, it is directed at one who knows the strong from the weak, as indicated by his statement, "in order to examine it for the sake of their religion and take precaution therein for himself," because how can one who is unable to perform *ijtihad* examine it and take precaution therein? He is but like one who gathers wood at night, believing a snake to be wood, so he grasps it and it bites him. If *taqlid* was prohibited, muftis would not issue fatwas, rather they would say to the questioner, "Do *ijtihad* as we do *ijtihad*, and learn the ruling from the proofs of the Shari'ah and do not ask us," and it is known that this was not the case in any period of the periods [of Islam], rather people would seek fatwa and people would issue fatwa. Hence, it is known from this that the path of *taqlid* was inherited from the Salaf, and the path of *ijtihad* for the non-*mujtahid* is an innovation invented by the ignorant who are like gatherers of wood at night believing non-proof to be proof and a snake to be wood.

It is strange that they condemn *taqlid* and yet they call people to do *taqlid* of themselves in abandoning *taqlid*. Once you know the condition of the speech of al-Shafi'i and al-Muzani, you will thereby understand the condition of the speech of the other [Imams].

Refutation of Ibn al-Qayyim's Replies to the Proofs of the *Muqallids*

Then he simulated a debate between a *muqallid* and an ignorant "*mujtahid*"[44].

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[41] Al-Bayhaqi narrated it with a sound chain from al-Shafi'i in *Manaqib al-Shafi'i* (Abu Bakr Ahmad ibn al-Husayn al-Bayhaqi, *Manaqib al-Shafi'i*, ed. al-Sayyid Ahmad Saqr, Cairo: Maktabah Dar al-Turath, 2:143)

[42] Isma'il ibn Yahya al-Muzani, *Mukhtasar al-Muzani*, ed. Muhammad 'Abd al-Qadir Shahin, 1419 H/1998 CE, Beirut: Dar al-Kutub al-'Ilmiyyah, p. 7

[43] Ibn al-Qayyim, op. cit. 3:469

[44] Ibn al-Qayyim refers to the "ignorant *mujtahid*" as "an advocate of proof, submitting to the truth wherever it may be" (*sahibu hujjah, munqadin li al-haqq haythu kana*) (Ibid. 3:479)

“Ask the people of remembrance if you do not know”

He mentioned the *muqallid* adducing His (Exalted is He) statement, “Ask the people of remembrance if you do not know” (16:43) as evidence and he replied[45] to it saying:

> The very thing that you cited is a proof against you because Allah (Glorified is He) instructed [us] to ask the people of remembrance and the “remembrance” (*dhikr*) is the Qur’an and hadith which Allah commanded the wives of His Prophet to remember in His statement, “And remember that which is recited in your houses of the signs of Allah [i.e. the Qur’an] and wisdom [i.e. the Sunnah]” (33:34). Hence, this is the remembrance which we were commanded to follow and He commanded those who have no knowledge with him to ask its people. This is incumbent on everyone, to ask the people of knowledge about the remembrance which He sent to His Messenger in order that they offer him information about it, and when they inform him of it, he has no option but to follow it. This was the condition of the imams of the people of knowledge. They did not have a specific authority (*muqallad*) who they followed in everything that he said. Hence, ‘Abd Allah ibn ‘Abbas (Allah be pleased with him) would ask the Sahabah about what the Messenger of Allah (Allah bless him and grant him peace) said or did or practiced, and would not ask them about other than that. Similarly, the Sahabah would ask the Mothers of the Believers, particularly ‘A’ishah, about the conduct of the Messenger of Allah (Allah bless him and grant him peace) in his house. Similarly, the Tabi‘un would only ask the Sahabah about the condition of their Prophet, and likewise, the Imams of *fiqh*, as al-Shafi‘i said to Ahmad, “O Abu ‘Abd Allah! You are more knowledgeable of hadith than me, so when a hadith is sound, inform me and I will adopt it as my *madhhab*, whether [the narrators are] Syrian, Kufan or Basran.”[46] None of the people of knowledge would ever ask about the opinion of a specific man and his *madhhab*, and accept it alone while rejecting all besides it.[47]

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[45] Footnote from the author:

Al-Shawkani replied to this in his treatise called *al-Qawl al-Mufid* by saying that this verse was revealed about a specific [kind of] “asking,” not within the point of contention, as implied by the context mentioned before the text adduced as proof, because He (Exalted is He) said, “And We sent not before you but men, whom We inspired. So ask the people of remembrance if you do not know” (21:7) and He (Exalted is He) said, “Is it a wonder for mankind that We have inspired a man among them?” and He (Exalted is He) said, “We sent not before you but men whom We inspired from among the folk of the townships.” (12:109)

The reply to this is: The one adducing [this verse] as proof did not claim that the verse was revealed specifically about the point of contention such that what was said in reply can be said, rather his claim is that the verse includes what we are discussing in general because the meaning of the verse is that Allah (Exalted is He) addressed the deniers of the messengership of Muhammad (Allah bless him and grant him peace) on the premise that he is a man, and He commanded them to ask the people of knowledge from the People of the Book [i.e. the Jews and Christians] if they are unaware that messengers were not but men.

Hence this proves what we are arguing, since Allah (Exalted is He) made it necessary for the polytheists to ask the people of knowledge from the People of the Book due to the ignorance of the polytheists and the knowledge of the people of knowledge from the People of the Book despite the subject-matter being from the fundamentals (*usul*) [of religion], that is the doctrine of messengership. Hence, the obligation for the ignorant people from the ummah of Muhammad (Allah bless him and grant him peace) to ask ‘ulama from the ummah of Muhammad (Allah bless him and grant him peace) who are the *mujtahid*s about the branches (*furu‘*) of their religion has greater precedence.

This is how evidence was adduced [from this verse], and it is not rejected by what was said in reply by al-Shawkani, who claims *ijtihad* [for himself] despite his lack of understanding of the speech of *muqallid*s, let alone the speech of *mujtahid*s, and let alone the speech of the Messenger (Allah bless him and grant him peace), and let alone the speech of Allah (Exalted is He). So understand the extent [of the ability] of these [modern-day] claimants to *ijtihad*.

[46] Al-Bayhaqi narrated it in *Manaqib al-Shafi‘i* (al-Bayhaqi, *Manaqib al-Shafi‘i*, op. cit. 1:476)

[47] Ibn al-Qayyim, op. cit. 3:529

This is a baseless reply because Allah (Exalted is He) said, "Ask the people of remembrance," and He did not say, "Ask about the remembrance," so it is not specific to asking about the remembrance as this speaker assumed. Similarly, the questions of the Sahabah, Tabi'un and those after them were not specific to questions about the remembrance i.e. the Qur'an and hadith. Rather, their questions were sometimes about the remembrance to learn it and exercise *ijtihad* therein when they were capable of *ijtihad*, and it was sometimes about the ruling of the Shari'ah according to theim without knowing its source when they were non-*mujtahid*s; and they would reply with the ruling of the Shari'ah only without quoting a hadith or a verse of the Qur'an or the method of adducing evidence and deduction. This is not hidden to this speaker since he transmitted in his book examples of this kind of fatwa from the Sahabah and others, so how is the verse restricted to asking about the remembrance i.e. quoting the Qur'an and hadith to them so they can exercise *ijtihad* therein using their opinion as this speaker believes? Hence, the proof is not against us, rather it is against them, and all praise belongs to Allah.

Ibn Jarir [al-Tabari] transmitted from Qabisah ibn Jabir:

> We went out [as pilgrims] and when we would pray the Morning Prayer, we would tie up our riding animals, and walk together and talk. While we were [doing this] one morning, a deer came to us to our right or to our left, so a man amongst us pelted it with a stone that hit its mastoid bone, and it fell on its head in blood, dead. This weighed heavy on us, so when we returned to Makkah, I came out together with him until we came to 'Umar, and he related to him the incident. On that occasion a man whose face was like a silver bracelet – meaning, 'Abd al-Rahman ibn 'Awf – was to his side, so he [i.e. 'Umar] turned to his companion [i.e. 'Abd al-Rahman ibn 'Awf] and spoke with him. Then he turned to the man and said, "Did you kill it deliberately or by mistake?" The man said, "I had intended to pelt it but I did not intend to kill it." 'Umar said, "I do not see but that you have combined between deliberateness and error. Proceed to a goat and slaughter it, and give its meat in charity, and make its skin into a leather jug."
>
> Then we left his company and I said, "O man! Honour the symbols of Allah, for the Commander of the Faithful did not know what fatwa to issue until he asked his companion. Proceed to your camel and sacrifice it, for perhaps that is compensation of the equivalent of what was killed from game [as required on the basis of Qur'an 5:95]. I did not recall [at that time] the [part of the] verse from *Surah al-Ma'idah*, "as adjudged by two just men among you" (5:95).
>
> My speech reached 'Umar and he did not confront us but with a whip. Then he overcame my companion striking [him] with the whip and he began to say, "Did you kill in the Haram and discredit the ruling [for its compensation]?" Then he approached me and I said, "O Commander of the Faithful! I will not permit for you today something of mine which is prohibited for you." He said, "O Qabisah ibn Jabir! Indeed I see you are young in age, with a wide chest and a clear tongue. If a youth has in him nine good traits and one bad trait, the bad trait spoils the good traits. So beware of the slips of the youth."[48]

Al-Mas'udi narrated it from 'Abd al-Malik ibn 'Umayr from Qabisah ibn Jabir in this form. Hushaym narrated it from 'Abd al-Malik ibn 'Umayr from Qasibah in a different form. He said:

[48] Ibn Jarir al-Tabari narrated it in his *Tafsir* with a sound chain of narration (Abu Ja'far Muhammad ibn Jarir al-Tabari, *Tafsir al-Tabari*, ed. 'Abd Allah ibn 'Abd al-Muhsin al-Turki, 1422 H/2001 CE, Cairo: Dar Hajr, 8:691-2)

> I and a companion of mine anticipated a deer at ‘Aqabah, and I hit it. Then I came to ‘Umar ibn al-Khattab and I mentioned this to him, so he approached a man to his side and they deliberated this [case]. Then he said, “Slaughter a goat.” So I turned and left.
>
> I came to my companion and said, “Indeed the Commander of the Faithful does not know what he says!” My companion said, “Sacrifice your camel.” When ‘Umar ibn al-Khattab heard this, he came, striking me with a whip, saying, “You kill game while in the state of *ihram* and you belittle the fatwa? Verily Allah (Exalted is He) says in His Book ‘as adjudged by two just men among you’ (5:95) and this is Ibn ‘Awf and I am ‘Umar!”[49]

It was also narrated by Hushaym from Husayn from al-Sha‘bi from Qabisah in this [same] form[50].

This tells you about the conduct of the Sahabah when issuing fatwa and it shows you that they did not restrict themselves to quoting verse and hadith in answer to the query of a questioner, rather they would issue him a fatwa according to what they understood from verse and hadith, and would strike those who opposed them using their own *ijtihad* while a non-*mujtahid* or when using the opinion of another who is a non-*mujtahid*. So understand this.

What this speaker says, that “they did not have a specific authority (*muqallad*) who they followed in everything that he said,” the answer to this is that if there was no specific authority, did they have a hadith-scholar (*muhaddith*), laying out for them the principles of criticising hadith, authenticating some and weakening others, while people rely on his authentication and his weakening, and his assessment [of narrators as being] trustworthy and weak? If you say, “Yes,” we say, “Name him for us,” and if you say, “No,” we say, “From where, then, did you devise this method?” If you say, “There was at that time no need for the science of criticism due to the preponderance of integrity and righteousness in people,” we say, “Likewise, there was at that time no need to imitate a specific [authority] due to the preponderance of integrity and righteousness, rather it was not even possible due to the absence of the codification and prevalence of *madhhab*s at that time, so if anybody in that time took upon himself to imitate a specific [authority], the matter would be constrained for him and he would fall into great difficulty, as distinguished from our time, so how can our time be analogised to their time and our condition to their condition?”

Furthermore, once the permissibility of *taqlid* is established, one and a hundred are the same, so why is it that you permit *taqlid* of a hundred and do not permit *taqlid* of one? If you say: “Why is it that you permit *taqlid* of one and do not permit *taqlid* of a hundred despite the latter *taqlid* being well-known amongst the Salaf?” we say: “You have acknowledged in this book [i.e. *I‘lam al-Muwaqqi‘in*] that some rules change due to the changing of times and conditions since you have devoted to this a section [in your book] and you spoke at length on it[51]. You have also acknowledged that blocking the means to the unlawful is obligatory and you also devoted a section to this[52]. And it is not hidden to you that opening this door for people in these times, in which ignorance, evil and following desires are preponderant amongst its people, it will open for them the doors of pursuing concessions (*rukhas*) and following desires and misguidance. You have yourself transmitted in this book from Ibn al-Mubarak that he said: al-Mu‘tamar ibn Sulayman informed me, he said: My father saw me while I was singing poetry and he said, ‘My dear son, do not sing poetry,’ so I said, ‘My dear father, al-Hasan [al-Basri] would sing poetry and Ibn Sirin would sing,’ so he said, ‘My dear son! If you took the evil that is in al-Hasan and the evil

[49] Al-Tabari narrated it with a sound chain (Ibid. 8:690-1)
[50] Ibid. 8:691
[51] Ibn al-Qayyim op. cit. 4:337-433
[52] Ibid. 4:553-5:66

that is in Ibn Sirin, all evil will gather in you!'[53] You also said: Sulayman al-Taymi said, 'If you take the concession of every 'alim, all evil will gather in you.'[54] This is the reason for our prohibition of *taqlid* of anyone one wishes, and we do not say it is totally impermissible such that the practice of the Salaf can be used against us. Since this was the condition of the *taqlid* of the Imams, what is your opinion of allowing the abandonment of *taqlid* entirely and acting according to what one believes or imitating whoever he wishes in whatever he wishes? So understand, and do not be from the obstinate and argumentative ones."

Hadith of the Man with the Head Injury

Then he transmitted the *muqallid* using as proof the Prophet's instruction to one who does not know to ask the one who does know, as he said in the hadith of the man with the head injury, "Do they not ask when they do not know? For indeed the only remedy for ignorance is to ask." He replied to it saying that it is one of the greatest proofs against *muqallid*s, because it proves the prohibition of issuing fatwa without knowledge and *taqlid* is not knowledge by the agreement of people.[55]

This is a baseless reply because those who issued a fatwa to the one who had a head injury did not issue a fatwa [based] on *taqlid*, rather they issued a fatwa to him using their [own] *ijtihad* from the Qur'an. Hence, the hadith proves only the prohibition of issuing fatwa from the Qur'an and hadith using *ijtihad* when not capable of *ijtihad*, just as these [modern-day] *mujtahid*s do when they misguide people by issuing fatwa without knowledge. Thus, it proves the obligation of *taqlid* for one who is not capable of *ijtihad* which is what was claimed. Hence, it is a proof for the *muqallid*s, not against them, as this speaker claimed.

As for a fatwa issued by *taqlid* being a fatwa issued without knowledge and hence prohibited, the answer is that the *muqallid* does not issue fatwa, rather the one issuing fatwa is the *mujtahid* and the *muqallid* is a transmitter of his fatwa, and the fatwa of a *mujtahid* is [derived] from knowledge not from ignorance, so how can in it be prohibited? Furthermore, his statement that "*taqlid* is not knowledge by the agreement of people," we do not know who the people that agreed that *taqlid* is not knowledge are. Allah (Exalted is He) has indeed said, "Ask the people of remembrance if you do not know," which proves that *taqlid* is knowledge because Allah (Exalted is He) commanded those who do not know to ask in order to remove ignorance, so if they were still ignorant and unknowing after asking, what is the purpose of asking? This proves that the claim that *taqlid* is ignorance and not knowledge is baseless.

The Prophet's Approval of *Taqlid*

Then he transmitted the *muqallid* using as proof [the report] that the father of a worker who fornicated with the wife of his employer said, "Indeed I asked the people of knowledge and they informed me that my son deserves a hundred lashes and exile for a year and that his [i.e. the employer's] wife deserves stoning," and the Messenger of Allah (Allah bless him and grant him peace) did not denounce him for doing *taqlid* of the people of knowledge[56]. He replied to it saying that he did not denounce him because they informed him of the Sunnah of Allah's Messenger (Allah bless him and grant him peace) and there was no asking of their [personal] opinion and position in that[57].

[53] Ibid. 5:236
[54] Ibid. 5:237. Ibn 'Abd al-Barr narrated this statement from Sulayman al-Taymi in his *Jami' Bayan al-'Ilm wa Fadlih* (Ibn 'Abd al-Barr, op. cit. p. 927); its editor, Abu al-Ashbal al-Zuhayri, graded its chain of narration *sahih*.
[55] Ibn al-Qayyim op. cit. 3:529
[56] Al-Bukhari narrated this hadith in his *Sahih* (al-Bukhari, op. cit. p. 939)
[57] Ibn al-Qayyim op. cit. 3:529

This is a baseless reply because they informed him of the ruling of the Shari'ah and they did not narrate to him a hadith in the form of narration, and despite this, he followed them, and the Messenger of Allah (Allah bless him and grant him peace) did not condemn him for this. Hence, this proves that the fatwa of the people of knowledge is a proof for the ignorant even if they do not say, "So-and-so narrated to us from so-and-so…" As for his statement, that "there was no asking of their [personal] opinion and position in that," the *muqallid* also does not ask about the [personal] opinion of the *mujtahid* and his position, rather he asks him about the ruling of the Shari'ah according to him just as the father of the worker asked them about it. Hence, the reply is incorrect and adducing proof [from this hadith] is correct.

'Umar's *Taqlid* of Abu Bakr

Then he transmitted the *muqallid* adducing as proof the statement of 'Umar regarding [the meaning of the word] *kalalah* [mentioned in the Qur'an 4:12, 176] that, "I feel embarrassed from Allah to contradict Abu Bakr,"[58] and he replied to it with five points:

The first point was that:

> They abbreviated the hadith and they deleted from it that which would negate the evidence they adduced.[59]

Then he mentioned the hadith, saying:

> Abu Bakr said regarding *kalalah*, "I will decide therein with my opinion and if it is correct, then it is from Allah and if it is incorrect, it is from me and from the devil and Allah is free from it. It is one without offspring or parent." 'Umar ibn al-Khattab said, "I feel embarrassed from Allah to contradict Abu Bakr."[60]
>
> Hence, 'Umar was embarrassed about opposing him in his admission of the possibility of error for him and that his speech is not always correct and safe from error [and it was not about the meaning of *kalalah*]. That 'Umar ibn al-Khattab (Allah be pleased with him) confessed close to his death that he has not decided at all regarding [the meaning of] *kalalah*, and he admitted that he did not understand it[61], proves this.[62]

This is a completely baseless answer and that which he said about the meaning of 'Umar's statement is closer to distortion (*tahrif*) than it is to interpretation (*ta'wil*) because the possibility of error for him [i.e. Abu Bakr] and his speech not always being correct and safe from error cannot possibly be disputed as it is known by necessity (*ma'luman bi l-dururah*) even without his admission. Furthermore, opposition therein would not cause embarrassment because he can say, "He said that only to humble himself, and the reality was not so." Hence, the meaning of his statement was not what this speaker mentioned.

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[58] 'Abd al-Razzaq al-San'ani narrated it in his *Musannaf* with a sound *mursal* chain from 'Amir al-Sha'bi (Abu Bakr 'Abd al-Razzaq ibn Hammam al-San'ani, *al-Musannaf*, ed. Habib al-Rahman al-A'zami, Second Edition, 1403 H/1983, Karachi: al-Majlis al-'Ilmi, 10:304)
[59] Ibn al-Qayyim op. cit. 3:530
[60] This wording was narrated by al-Tabari in his *Tafsir* with a sound *mursal* chain from al-Sha'bi (Ibn Jarir al-Tabari, op. cit. 6:475)
[61] The narration from 'Abd al-Razzaq in his *Musannaf* states that 'Umar made the comment, "I feel embarrassed from Allah to contradict Abu Bakr, I consider *kalalah* to be one without offspring and parent" near his death "upon being stabbed," which contradicts both claims made by Ibn al-Qayyim that he was embarrassed about contradicting Abu Bakr's admission of the possibility of error in his opinion and that 'Umar made no decision in this matter near his death. 'Umar's admission that he did not understanding the word *kalalah* was during the lifetime of the Prophet (Allah bless him and grant him peace) as recorded by 'Abd al-Razzaq ('Abd al-Razzaq al-San'ani, op. cit. 10:305).
[62] Ibn al-Qayyim op. cit. 3:530

Rather, the meaning of his statement is that he felt embarrassed to contradict him in the issue at hand because that may be disputed and a dispute therein may in general cause embarrassment due to his being elder and more learned than him.

This does not conflict with what he narrated from him that he confessed near his death that he has not decided at all on [the meaning of] *kalalah* and that he did not understand it, because the meaning of his statement is that he has not decided therein anything that opposed Abu Bakr, rather he followed Abu Bakr therein because he understood it in a way that would compel him to oppose Abu Bakr. By this [explanation], his different statements agree without a contrived explanation, and Allah knows best. Refer to *Bab al-Kalalah* from *I'la al-Sunan*[63] which will clarify for you the truth of what we said.

The second point is that 'Umar's opposition to Abu Bakr [in some issues] is more well-known than needs recollecting, and he recounted [some of these] matters[64]. This is also a baseless answer because we do not claim that 'Umar imitated Abu Bakr in everything, and we have only claimed that he followed Abu Bakr regarding *kalalah*. Hence, his opposition in other than it does not harm us because he was an independent *mujtahid* (*mujtahid mustaqill*), allowed to disagree in that which he disagreed.

The third point was that he said:

> If it were assumed that 'Umar did *taqlid* of Abu Bakr in everything that he said, there is no peace [of mind] in this for those who do *taqlid* of one who came after the Sahabah and Tabi'in of those who do not come near or close to the Sahabah. So if it were as you claimed that you have an example in 'Umar, then do *taqlid* of Abu Bakr and leave the *taqlid* of other than him, and Allah and His Messenger and all of His servants will praise you for this *taqlid* [in a way] that they will not praise you for doing *taqlid* of other than Abu Bakr.[65]

This is a baseless reply because we do not claim that 'Umar did *taqlid* of Abu Bakr in everything that he said, rather our claim is the establishment of *taqlid* itself, which is established from 'Umar's *taqlid* of Abu Bakr in the issue of *kalalah*.

[Even] if it were assumed that 'Umar imitated Abu Bakr in everything that he said, it would not be necessary for us to do *taqlid* of Abu Bakr also because 'Umar's *taqlid* of Abu Bakr was possible for him due to it being feasible for him to refer to him in all that needs consideration as he was present before him and was not absent, and this is not possible for us because his *madhhab* has not reached us in every chapter of the chapters of jurispudence, as opposed to the one we do *taqlid* of since his *madhhab* has reached us so referring to it is possible for us. It is incumbent on us to do *taqlid* of a *mujtahid* 'alim, not *taqlid* of a specific *mujtahid*, so once we do *taqlid* of an Imam, we are released of our responsibility, and it is not possible to ask, "Why do you do *taqlid* of this [Imam] and why do you not do *taqlid* of that [Imam]?"

Furthermore, even if we did *taqlid* of Abu Bakr, we would not be safe from your tongues because Abu Bakr is also not free from error, nor is he a Messenger, and there is no proof according to you in the speech of one not infallible and not a Messenger, so how do you praise us for this *taqlid*? If Allah and His Messenger would praise us as you stated, they would praise us for *taqlid* of a *mujtahid* Imam.

The fourth point is that:

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[63] Zafar Ahmad al-'Uthmani, *I'la al-Sunan*, ed. Na'im Ashraf Nur Ahmad, 1427 H, Karachi: Idarat al-Qur'an, 18:353-453
[64] Ibn al-Qayyim op. cit. 3:530-1
[65] Ibid. 3:532

> Those who do *taqlid* of their Imams are not embarrassed by what 'Umar was embarrassed by since they oppose both Abu Bakr and 'Umar and are not embarrassed by this due to the opinion of those they imitate from the Imams. Rather, one of their extremists in one of his books on the principles of jurisprudence (*usul al-fiqh*) disallows *taqlid* of Abu Bakr and 'Umar and deems the *taqlid* of al-Shafi'i obligatory[66]. How strange that he deems the *taqlid* of al-Shafi'i obligatory while prohibiting *taqlid* of Abu Bakr and 'Umar![67]

This is a baseless reply because although 'Umar was embarrassed to contradict Abu Bakr in one issue and he disputed him in [several other] issues, our Imams are embarrassed to contradict him in [many] issues and disputed him in some of them, and likewise, we are embarrassed to contradict him in some of them and not [embarrassed to] contradict him in some of them in imitation of our Imams, so how can it be said that we are not embarrassed to oppose Abu Bakr and 'Umar?

The fifth point is that:

> The upshot of this is that 'Umar had imitated Abu Bakr in one issue, so is there any proof in this for the permissibility of elevating the opinions of a specific man to the level of the texts of the lawgiver, while not turning to the opinion of any besides him, rather not even to the texts of the lawgiver unless it it agrees with his opinion? For this, by Allah, is from that which the ummah have agreed that it is prohibited in the religion of Allah, and it did not appear in the ummah except after the passage of the blessed generations.[68]

This is also a baseless reply because once the permissibility of *taqlid* due to the excuse of ignorance or not having confidence in one's knowledge is established from 'Umar's *taqlid* of Abu Bakr in one issue, its permissibility in thousands of issues due to that excuse is established because of the same effective cause. You have no evidence for distinguishing between one issue and many issues, nor one individual and many individuals. Hence, vilification of individual *taqlid* (*al-taqlid al-shaksi*) is pure ignorance.

The statement that the ummah have agreed that it is prohibited in the religion of Allah is a slander against the ummah, rather the ummah, with the exception of an isolated and lone group, have agreed upon its permissibility, verbally and practically. That which is prohibited, on the prohibition of which there is agreement, is that one makes another an intrinsic authority (*matbu' binafsihi*) and makes his speech an absolute proof, decreeing over the speech of Allah and the Messenger. The *taqlid* which we are discussing is not so because it is clear disbelief (*kufr bawah*) which none of the Muslims state, and we only imitate those we imitate because we know that they will teach us the rules of Allah and His Messenger and will show us the path of right-guidance, not because they are intrinsic authorities.

If you say: "If the matter is as you say, why do you not leave his opinion after the statement of Allah and the Messenger in opposition to it is manifest?" We say: "This stems from your bad opinion and your false assumption that we prefer the opinion of the Imam over the statement of Allah and His Messenger, although the reality is not so. The reality of the matter is that the statement of Allah and the Messenger manifestly opposing the opinion the Imam is dependent on two things: the first of them is

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[66] Ibn al-Qayyim is probably referring to Imam al-Haramayn al-Juwayni's statement in *al-Burhan fi Usul al-Fiqh*: "The research scholars (*muhaqqiqun*) have agreed that laypeople may not join the *madhhab*s of individuals from the Sahabah (Allah be pleased with them), rather they must follow the *madhhabs* of the Imams who examined and deliberated, arranged chapters, and mentioned the situations of juristic rulings, interspersed with discussion on the *madhhabs* of the earlier ones." (Abu al-Ma'ali 'Abd al-Malik ibn 'Abd Allah al-Juwayni, *al-Burhan fi Usul al-Fiqh*, ed. 'Abd al-'Aziz al-Dib, First Edition, 1399 H, 2:1146) The reason for this opinion is that the *madhhab*s of the Sahabah were not written down and codified, and the later Imams based their *madhhab*s on the *madhhab*s of the Sahabah. See Imam al-Nawawi's explanation of this position in the first essay from the Appendix.

[67] Ibn al-Qayyim op. cit. 3:532

[68] Ibid.

knowledge that this is the statement of Allah and the Messenger, and the second is knowledge that this is in opposition to the opinion of the Imam. The *muqallid* does not have knowledge of either of these two things because this knowledge depends on adducing evidence (*istidlal*) and the *muqallid* is either completely incapable of it or the proof he adduces is not acceptable for consideration according to the Shari'ah just like the proof adduced by those who adduced proof for the obligation of a ritual bath (*ghusl*) for the injured man using the verse of *tayammum* (Qur'an 5:6). When the matter is such, how is it possible for him, using his own *ijtihad*, to judge that the *mujtahid* opposed the rule of Allah and His Messenger? And when that is not possible for him, how can he leave his opinion in favour of the conflicting view? The upshot is that the *muqallid*'s avoidance of rejecting the opinion of the Imam in favour of a hadith etc. is not because the opinion of the Imam is weightier than the statement of Allah and the Messenger according to him – far-removed is he from that – rather, it is because the Imam's opposition to Allah and the Messenger is not established according to him."

If you say: "Even if he does not recognise the opposition himself, we and other 'ulama together with us can inform him that his Imam opposed hadith." We say: "If he assents to you in this statement by adducing proof, he is not capable of adducing proof and the soundness of the proof he adduces is not trusted, so how about his assent? And if he assents to you without proof, he becomes your *muqallid* and neither of the two *taqlid*s is superior to the other, so why should he abandon his previous *taqlid* and resort to your *taqlid*?" Hence, the doubt and uncertainty in the disparagement is removed, and all praise is due to Allah.

The Sahabah's *Taqlid* of each other

Then he transmitted the *muqallid* adducing as proof that Ibn Mas'ud would accept the opinion of 'Umar, and he replied to it saying that this acceptance was only because his opinions agreed with 'Umar's opinions, and this was not in the form of *taqlid*, since he would oppose 'Umar frequently[69]. The answer to this is that if this acceptance was because of agreement, there would be no reason to specify 'Umar since he would agree with 'Umar and he would agree with other than him. Rather, its apparent meaning is that when a proof was not clear to him in an issue, he would adopt the opinion of 'Umar, relying on his knowledge and his sharp insight into religion, which is *taqlid*. His opposition to 'Umar when the evidence became manifest to him in opposition to him is of no harm because he was a *mujtahid* Imam, allowed to disagree. Hence, the reply is rejected and the evidence adduced stands.

Then he transmitted the *muqallid* adducing as proof that 'Abd Allah would leave his opinion in favour of the opinion of 'Umar, and Abu Musa would leave his opinion in favour of the opinion of 'Ali, and Zayd would leave his opinion in favour of the opinion of Ubayy ibn Ka'b, and he replied to it saying that:

> They would not leave what they recognised from the Sunnah in deference to these three as the sect of *taqlid* do. Rather, one who carefully studies the conduct of this group will see that when the Sunnah became manifest to them, they would not leave it for the opinion of another, whoever he may be.
>
> Ibn 'Umar would leave the opinion of 'Umar when the Sunnah was manifest to him, and Ibn 'Abbas would condemn those who opposed what reached them of the Sunnah by their statement, "Abu Bakr and 'Umar said," and he said, "Stones almost descend on you from the sky. I say: 'Allah's Messenger (Allah bless him and grant him peace) said,' and you say: 'Abu

[69] Ibid. 3:534

Bakr and 'Umar said!'"[70] Allah have mercy on Ibn 'Abbas (Allah be pleased with him); by Allah, if only he had seen our successors, those who when it is said to them, "Allah's Messenger (Allah bless him and grant him peace) said," they say, "So-and-so and so-and-so said," of those who do not come close to the Sahabah or anywhere near them.

They would only leave their opinions in favour of the opinions of these [others] because they postulated an opinion and these [others] postulated an opinion, and the evidence was in their favour so they would resort to their [opinions] and would leave their [own] opinions.[71]

The reply to this is that had they left their opinions due the appearance of a proof in opposition to them, this would not be leaving their opinions in favour of the opinions of 'Umar, 'Ali and Ubayy ibn Ka'b, rather, in favour of proof. So what the *muqallid* said is correct, that it was *taqlid* of them.

The conclusion is that when a *mujtahid* has proof on an issue such that his breast expands to it and his heart finds tranquillity in it, he cannot go back on it in favour of the opinion of another; whereas, if he does not have with him such a proof, he may refer to the opinion of one who has more insight and knowledge than himself and leave his opinion in deference and adherence to him, and this is the meaning of Ibn Mas'ud leaving his opinion in favour of the opinion of 'Umar, and Abu Musa leaving his opinion in favour of the opinion of 'Ali, and Zayd leaving his opinion in favour of the opinion of Ubayy ibn Ka'b. By this [explanation], the contradiction in the actions of the Sahabah is removed.

As for what he said that Ibn 'Abbas would denounce those who opposed the statement of the Messenger of Allah (Allah bless him and grant him peace) in favour of the opinions of Abu Bakr and 'Umar, it is apparent from this that there were [people] from the Salaf who would do *taqlid* of Abu Bakr and 'Umar just like we do *taqlid* of our Imams, and it is manifest from this that this *taqlid* was not an innovation invented after the passing of the blessed generations.

There remains [our reply to] Ibn 'Abbas's condemnation of them, and the answer to it is that Ibn 'Abbas would do the same as what they did, and he rejected hadith using his own *ijtihad*, and Abu Hurayrah would denounce him more severely than he would denounce them, since he denounced him for rejecting the statement of the Messenger of Allah (Allah bless him and grant him peace) using opinion and Qiyas on the issue of *wudu'* (ablution) from whatever touches fire[72], although his rejection has a sound interpretation which is that he rejected Abu Hurayrah'a narration based on his belief that he erred in the narration, and this was not a rejection of the statement of Allah's Messenger (Allah bless him and grant him peace) – his greatness is far-removed from this.

Hence, their [i.e. those who imitated Abu Bakr and 'Umar] opposition also has a sound interpretation which is that this was not a rejection of the statement of Allah's Messenger and opposition to it in favour of the opinion of Abu Bakr and 'Umar – far-removed are they from that. Rather, this was opposition to the fatwa of Ibn 'Abbas in favour of the fatwas of Abu Bakr and 'Umar. The effect of [their] opposition

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[70] Ahmad ibn Hanbal narrated it with the words "I believe they will be destroyed" instead of "Stones almost descend on you from the sky" (Ahmad ibn Hanbal, *Musnad al-Imam Ahmad ibn Hanbal*, ed. Shu'ayb al-Arna'ut, 1416 H/1995 CE, Beirut: Mu'assasat al-Risalah, 5:228). The editor, Shu'ayb al-Arna'ut, graded the chain weak due to the narrator Sharik ibn 'Abd Allah al-Nakha'i.

[71] Ibid. 3:538-9

[72] The author is referring to an incident narrated by Ibn Majah and al-Tirmidhi (Ibn Majah, op. cit. p. 99; Abu 'Isa Muhammad ibn 'Isa al-Tirmidhi, *al-Jami' al-Kabir*, ed. Bashshar 'Awwad Ma'ruf, 1996 CE, Beirut: Dar al-Gharb al-Islami, 1:120-1). The narration of Ibn Majah is as follows: Abu Hurayrah narrated that the Prophet (Allah bless him and grant him peace) said: "Perform *wudu'* from whatever was changed by fire." Ibn 'Abbas said: "Should we perform *wudu'* from [using] hot water [i.e. should we perform *wudu'* afresh once we have performed it using hot water]?!" Thereupon, he said to him: "O my nephew! When you hear a hadith from Allah's Messenger (Allah bless him and grant him peace), do not strike for it examples." The editor of al-Tirmidhi's *Jami'*, Bashshar 'Awwad Ma'ruf, graded the chain of narration *hasan*.

[to Ibn 'Abbas] was [to say] that: "You postulate this opinion and adduce this hadith as proof, and Abu Bakr and 'Umar postulated an opinion contrary to it, and they are more learned than you and are more acquainted with hadith, so we will not leave their opinion for your opinion."[73] Hence this speaker has no proof in Ibn 'Abbas's condemnation. Rather, this narration is a clear proof against them, if they would only understand.

Astonishingly, he said before this:

> We make Allah a witness over us of a declaration we will be asked about on the day we meet Him, that when an opinion is established from the two rightly-guided caliphs who Allah's Messenger (Allah bless him and grant him peace) commanded us to follow and imitate, and the inhabitants of earth agree on its opposite, we will pay no attention to any one of them.[74]

Despite this, he argues using Ibn 'Abbas's condemnation of those who follow Allah's Messenger (Allah bless him and grant him peace) by following the two rightly guided caliphs who the Messenger of Allah (Allah bless him and grant him peace) commanded us to follow. This is nothing but incoherence and contradiction.

Then he transmitted the *muqallid* adducing as proof the statement of Masruq, "I would not leave the opinion of Ibn Mas'ud for the opinion of any of the people," and he replied to it in a similar [way] to how he replied to the statements of Ibn Mas'ud and others, and this is greater and greater corruption because this statement is a clear text on *taqlid* of a specified individual, and the justification of agreement [as opposed to imitation] is completely baseless.

Allah's Command to Obey the People of Authority

Then he transmitted the *muqallid* adducing His (Exalted is He) statement, "Obey Allah, and obey the messenger and those of authority amongst you" (4:59) as proof, and the way proof is adduced [from this verse] is that the 'ulama are from those of authority, so it is obligatory to obey them by Allah's command, and this is *taqlid*. He replied to it with several points:

First, it is obligatory to follow them secondarily to obeying Allah and His Messenger, and there is no command therein of placing the opinions of men ahead of the Sunnah of Allah's Messenger (Allah bless him and grant him peace) and favouring *taqlid* over it[75]. The answer to this is that this reply is premised on his false assumption that *muqallid*s put the opinions of men ahead of the Sunnah of Allah's Messenger (Allah bless him and grant him peace) and you know that this is false. The truth is that they imitate them due to their belief that their opinions unveil the Sunnah of Allah's Messenger (Allah bless him and grant him peace) and are not in opposition to it. The proof for this is their statement that "the Qiyas of a *mujtahid* is a clarifier (*muzhir*) and not an establisher (*muthbit*)." Hence, the reply is rejected and the evidence adduced stands.

Secondly, that this verse is one of the biggest proofs against them and the greatest [evidence] to invalidate *taqlid* because Allah commanded obedience of Allah and His Messenger therein, and obedience of Allah and His Messenger is not possible except by following their commands and abstaining from their prohibitions, and following their commands and abstaining from their prohibitions

[73] In fact something similar to this was said in reply to Ibn 'Abbas's opposition to the opinion of Abu Bakr and 'Umar as narrated by Ahmad ibn Hanbal that 'Urwah ibn al-Zubayr said to Ibn 'Abbas, "They [i.e. Abu Bakr and 'Umar] were more obedient to the Messenger of Allah (Allah bless him and grant him peace) and more learned about him than you!" (Ahmad ibn Hanbal, op. cit. 4:133) Shu'ayb al-Arna'ut graded the chain *sahih*.

[74] Ibn al-Qayyim op. cit. 3:532

[75] Ibid. 3:541

is not possible without knowledge of the commands and prohibitions, and knowledge is not acquired through *taqlid*, and the *muqallid* admits about himself that he is not from the people who know the commands of Allah and His Messenger and he is [nothing] but an imitator therein of the people of knowledge, and thus realising obedience to Allah and His Messenger is not possible for him[76]. This is a baseless reply, for otherwise it would entail that one who obeys Allah via *taqlid* by doing *taqlid* of His Messenger is not obeying Allah, rather only the Messenger, and none but an ignorant or arrogant person would say this. The truth is that just as knowledge is acquired by adducing evidence, it is also acquired by *taqlid* and this knowledge is sufficient for obedience, and obedience is not dependent on knowledge by means of adducing evidence.

Third, the people of knowledge forbade *taqlid* of themselves so it is obligatory to obey them in that by abandoning *taqlid*[77]. The answer to this is that this is baseless because absolute prohibition of *taqlid* is not established from any one of them, and even if it was established from them, abandoning *taqlid* due to their statement is the very essence of *taqlid* which is forbidden according to you, so how is it obligatory to abandon *taqlid* by doing *taqlid* of their opinion? For, the command to do *taqlid* of them in their command to abandon *taqlid* results in contradiction, which is ignorance.

Fourth, that He (Glorified is He) said, "If you have a dispute concerning any matter, refer it to Allah and the Messenger" (4:59) which is clear in falsifying *taqlid* and forbidding referral to an opinion, *madhhab* or *taqlid*, in disputed issues[78]. This is a baseless reply because once Allah (Exalted is He) made it obligatory for the ignorant to do *taqlid* of those who know because they unveil the ruling of Allah and His Messenger, the ignorant's referral of a matter disputed amongst themselves to the people of knowledge is precisely referral to Allah and the Messenger and is not referral to the opinion of a *madhhab* or *taqlid* as this speaker claims.

Then he produced a question against himself, saying "If they were followed only in that which they reported from Allah and His Messenger, obedience would be of Allah and His Messenger, not of them, so what is the obedience that is specific them?" He replied to it saying that there is no obedience specific to them, rather their obedience is subordinate to the obedience of the Messenger which is why He adjoined it to obedience of him and did not separate it from it by saying "and obey" [a third time] as He separated the obedience of the Messenger from obedience to Allah because of it being a separate obedience[79]. This question and this answer are baseless because no one claimed that the 'ulama are to be obeyed independently, rather independent obedience is specific to Allah (Exalted is He), and the Messenger is only obeyed because He is an informant of the rules of Allah, and the 'ulama are obeyed because they are informants of the rules of Allah and His Messenger. Hence, the claim that the obedience of the Messenger is independent is false.

Exhortation to Follow the Sahabah

Then he transmitted the *muqallid* adducing His (Exalted is He) statement, "And those who follow them [i.e. the Sahabah] in excellence" (9:100) as proof, and he responded to it saying that following them is following proof, not *taqlid* of them[80]. This is a baseless reply because their adherence is not restricted to *ijtihad*. Rather, just as following is by means of *ijtihad* for the one who is capable of it, likewise it is by means of *taqlid* for the one who is not capable of *ijtihad*, because from them were those who would exercise *ijtihad* themselves and knew the ruling from the evidence, and from them were those who were

[76] Ibid.
[77] Ibid.
[78] Ibid.
[79] Ibid. 3:541-2
[80] Ibid. 3:542

not so, rather they knew the ruling by asking the people of knowledge and *ijtihad*. So how is the claim that it is restricted to *ijithad* and recognising the ruling from evidence sound?

By this [explanation], the invalidity of what he said, that "if their followers are the *muqallid*s who accept about themselves and all the people of knowledge [agree] that they are not from the people of knowledge, the chief 'ulama who possess the proofs would not be from their followers, and the ignorant would be more fortunate as their followers than them, and this is absolutely impossible,"[81] becomes manifest, because this is premised on the assumption that following is restricted to *taqlid*, and we do not favour restriction, neither to *ijtihad* nor to *taqlid*, rather we say: The following of the *mujtahid* is acting upon *ijtihad* when he knows the ruling from the evidence and his breast expands to it, and the following of the *muqallid* and the one whose breast doesn't expand to evidence is *taqlid*. By this [explanation], the invalidity of what he said, that the followers of the Imams are those who trod upon their method in following proof, like Abu Yusuf and Muhammad [did] of Abu Hanifah, and al-Bukhari, Muslim, Abu Dawud and al-Athram [did] of Ahmad, not the *muqallid*s who regard their opinions at the level of the texts, rather because of them, they abandon the texts, so they are not from their followers[82], becomes manifest.

Ibn Mas'ud's Advice to Take the Sahabah as Examples

Then he transmitted the *muqallid* adducing as proof the statement of Ibn Mas'ud, "Whoever takes a path amongst you, let him take the path of those who have died; those are the companions of Muhammad, for indeed they were the most righteous of this ummah in [their] hearts, the deepest of them in knowledge, the least of them in pretension, the most upright of them in guidance, and the best of them in excellence,"[83] and he replied to it saying that:

> This is from the biggest proof against you for several reasons:
>
> Firstly, because he forbade taking the path of the living, and you imitate the living and the dead.
>
> Secondly, because he specified those who's path is to be followed as the best of creation and the most virtuous and learned of this ummah, i.e. the Sahabah, and you, assemblies of *muqallid*s, do not believe in doing *taqlid* of them, nor taking their path, and you only believe in doing *taqlid* of so-and-so and so-and-so of those many times less than them.
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> Thirdly, taking their path (*istinan lahum*) is to take them as an example (*iqtida'*), which is that the follower produces the equivalent of what they produced, and does and as they did, and this negates the acceptance of the opinion of another without proof which the Sahabah were upon.
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> Fourthly, it has been authenticated from Ibn Mas'ud that he forbade *taqlid* and that a man should not be a minion (*imma'ah*) having no insight, and so it is understood that "taking a path" according to him is not *taqlid*.[84]

This is a baseless reply. As for the first reason, most *muqallid*s do *taqlid* only of the dead, i.e. the four Imams. Furthermore, the command to follow the dead and not the living is because the living are not safe from tribulation (*fitnah*) as was stated clearly in his speech. Hence, the living who are similar to the dead in being safe from tribulations due to their scrupulousness and piety will be equivalent to them in

[81] Ibid.
[82] Ibid. 3:543
[83] Ibn 'Abd al-Barr narrated it (Ibn 'Abd al-Barr, op. cit. p. 947) with a chain graded weak by Abu al-Ashbal al-Zuhri
[84] Ibn al-Qayyim op. cit. 3:544-5

taqlid. Otherwise, the Sahabah's *taqlid* of each other would not be permissible except after their death and such [a view] is pure ignorance.

As for the second reason, we do not leave *taqlid* of the Sahabah, rather we do *taqlid* of them through *taqlid* of our Imam because he would do *taqlid* of them. Here are the books of the Hanafis replete with the obligation of doing *taqlid* of the Sahabah in that which there is no clear text and for which Qiyas would be abandoned.

As for the third reason, if "taking a path" meant what he said, there would be no reason to specify *taqlid* of the dead, and the fear of tribulation upon the living would not prevent *taqlid* of them because there is no difference between following the evidence from the living and the dead, and between the one secure from tribulation and others. It is, thus, apparent that what he said is distortion of the statement of Ibn Mas'ud and is not a [valid] interpretation of it.

As for the fourth, you are aware of the reply to this, that he did not forbid the well-known *taqlid* and he only forbade *taqlid* which creates an independent authority, believing if he believes and disbelieving if he disbelieves. Hence, the said prohibition does not prove that the meaning of "taking a path" in his statement is other than the well-known *taqlid*.

Hadiths on Following the Rightly Guided Caliphs

Then he transmitted the *muqallid* adducing as proof his (Allah bless him and grant him peace) statement, "You must hold to my Sunnah and the Sunnah of the rightly-guided caliphs after me,"[85] and his (Allah bless him and grant him peace) statement, "Follow the two after me Abu Bakr and 'Umar"[86] and he replied to it with several points:

Firstly:

> It is from our greatest proofs against you in invalidating that which you are upon of *taqlid*, for it is contrary to their Sunnah, and it is known by necessity that none of them would leave the Sunnah when it became manifest in favour of the opinion of another, whoever he may be, and he would never have an opinion besides it, and the method of the sect of *taqlid* is contrary to this.[87]

This is a baseless reply because 'Umar himself rejected the hadith of Fatimah [bint Qays] that "there is no maintenance (*nafaqah*) or lodging (*sukna*) for the woman who has been irrevocably divorced (*mabtutah*)," and he did not leave his own *ijtihad* for that hadith[88], and he struck Qabisah ibn Jabir or his companion due to abandoning *taqlid* of an 'alim for the opinion of an ignorant *mujtahid* like these

[85] Abu Dawud, al-Tirmidhi and Ibn Majah narrated it (Abu Dawud, op. cit. 5:192-3, al-Tirmidhi, op. cit. 4:408-9, Ibn Majah, op. cit. p. 20) and al-Tirmidhi said its chain is *hasan sahih*.
[86] Ahmad, al-Tirmidhi and Ibn Majah narrated it (Ahmad, op. cit. 38:280-1, al-Tirmidhi, op. cit. 6:43-4, Ibn Majah, op. cit. p. 33) and al-Tirmidhi said it is *hasan*.
[87] Ibn al-Qayyim op. cit. 3:555
[88] The author is referring to a hadith narrated by Muslim in his *Sahih* as follows: Abu Ishaq said: We were with al-Aswad ibn Yazid sat in the Great Mosque and al-Sha'bi was with us. Al-Sha'bi narrated the hadith of Fatimah bint Qays that Allah's Messenger (Allah bless him and grant him peace) did not allocate for her lodging or maintenance [after she was irrevocably divorced]. Thereupon al-Aswad took a handful of pebbles and pelted him with it, saying: "Woe to you! You narrate the like of this?! 'Umar said, 'We will not leave the Book of Allah and the Sunnah of our Prophet (Allah bless him and grant him peace) for the speech of a woman who may have remembered and may have forgotten. She [i.e. the irrevocably divorced woman] has lodging and maintenance.' Then he recited the verse 'Expel them not from their houses nor let them go forth unless they commit open immorality.'" (65:1) (Muslim, op. cit. p. 689) After a woman is irrevocably divorced either by having been issued three divorces or one irrevocable divorce (*talaq ba'in*), during her waiting period (*'iddah*), the husband must provide lodging and maintenance according to 'Umar based on the aforementioned verse and in disregard of the narration of Fatimah bint Qays.

[false] *mujtahid*s who claim to act upon hadith by exercising their opinion. So how can it be said that it is from the biggest proofs in invalidating *taqlid*?

Secondly:

> He adjoined their Sunnah to the Sunnah of the Prophet (Allah bless him and grant him peace) in the obligation to follow, and adopting their Sunnah is not *taqlid* of them, rather it is adherence to the Messenger of Allah (Allah bless him and grant him peace), just as adopting the Adhan was not *taqlid* of the one who saw it in [his] dream[89], and adopting [the practice of] making up what the latecomer (*masbuq*) missed of his prayer after the salutation (*salam*) of the imam was not *taqlid* of Mu'adh[90], rather they were adherence to the one who commanded us to adopt them, so where is the *taqlid* which you are upon in respect to this?[91]

This reply is also baseless because the Prophet (Allah bless him and grant him peace) did not command us to follow the righteous caliphs except because they are knowledgeable about the rulings of the Shari'ah, obedient to Allah and His Messenger, guiding and guided, despite his knowledge that they are not secure from error and they are right and wrong. Thus, whoever is like them in these qualities share in their ruling in the obligation to follow [them]. Variation in ranks is of no consequence because ranks varied between the righteous caliphs also since the effective factor is the capacity common to them, of knowledge, piety, guidance and being guided, not their particular levels. Hence, *taqlid* of the Imams is established by the generality of the cause.

What he said, that following the caliphs is not *taqlid* because they were commanded to follow (*ittiba'*), rather it is adherence to the command of the Prophet, the reply to this is that the command of the Prophet (Allah bless him and grant him peace) to [do] this does not exclude it from *taqlid*, and if it were to exclude it, we say: We do not do *taqlid* of our imams, rather we do *ittiba'* of them because we were commanded to do *ittiba'* of them by the Qur'an and Sunnah. Hence, this distinction upon which he based his terminology does not favour him.

Thirdly:

> You are the first to oppose these two hadiths because you do not believe adopting their Sunnah and following them is obligatory, and their opinion according to you is not a proof, and one of the extremists from you stated that it is not permissible to do *taqlid* of them while it is obligatory to do *taqlid* of al-Shafi'i, so it is strange that you adduce as proof something that you are the strongest of people in opposition to. Success is from Allah.[92]

This is a baseless reply because you acknowledged that their Sunnah was to follow the evidence, and our Imams followed this [practice] since they were *mujtahid*s, and you are aware that it was from their Sunnah to enforce *taqlid* of an 'alim on an ignorant person because 'Umar struck Qabisah or his

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[89] Ibn al-Qayyim is referring to a hadith recorded by al-Tirmidhi, Ibn Majah and Abu Dawud in which 'Abd Allah ibn Zayd ibn 'Abd Rabbih saw a dream wherein Jibril taught him the Adhan and when he informed the Prophet (peace and blessings be upon him) of the dream, he instructed Bilal to perform the Adhan as witnessed in the dream (Abu Dawud op. cit. 1:385-7, Ibn Majah, op. cit. p. 135, al-Tirmidhi, op. cit. 1:231-2). Al-Tirmidhi said its chain is *hasan sahih*.

[90] Ibn al-Qayyim is referring to a hadith recorded by Ahmad and Abu Dawud in which Mu'adh was a latecomer to prayer and upon finishing with the imam, he completed his prayer by making up for the missed *rak'at*s, and the Prophet (peace and blessings be upon him) said: "Verily, Mu'adh has has produced for you a practice, so follow him." (Ahmad, op. cit. 36:436-9, Abu Dawud op. cit. 1:392-4). There is a break in the chain (*inqita'*) between the narrator 'Abd al-Rahman ibn Abi Layla and Mu'adh.

[91] Ibn al-Qayyim op. cit. 3:555

[92] Ibid. 3:555-6

companion due to abandoning *taqlid* of an 'alim and issuing fatwa without knowledge, and we follow this Sunnah, so we are *muqallid*s of the righteous caliphs, and we do not oppose them as you claimed.

Furthermore, our objective in this discussion is to establish the legality of *taqlid* itself since if *taqlid* was prohibited, the Prophet (Allah bless him and grant him peace) would not have commanded us to follow the righteous caliphs, and this objective has been achieved. As for the point of it being specifically to follow the righteous caliphs, or it being inclusive of all who follow their method and their conduct from the *mujtahid* Imams, that is another matter. Hence, the evidence adduced is complete and that which he produced [against it] does not arise.

Fourthly:

> He (Allah bless him and grant him peace) said in this very hadith, "For verily, he who lives from amongst you after me, will see much conflict." This is a condemnation of those who have disagreements, and a warning against following their paths. Disagreements increased and were aggravated only due to *taqlid* and its devotees who split the religion, and divided its adherents into sects, each sect supporting its authority and inviting to it, condemning any who contradict it, while not believing in acting according to their opinion, so it was as though they were a separate religion apart from them, naturally disposed to and struggling to refute them, and they say, "Their books and our books", "their imams and our imams", "their *madhhab* and our *madhhab*." This, while the Prophet is one and the Qur'an is one and the religion is one and the Lord is one. It is therefore incumbent on everyone to submit to a common word between all of them, and not obey [any] besides the Messenger and not make along with him one whose opinions are equivalent to his statements, some of them not taking others as lords besides Allah[93]. If their word agreed on this, and every one of them submitted to one who invites to Allah and His Messenger, and they judged between themselves by the Sunnah and the narrations from the Sahabah, disagreement will be less, even if it is not [totally] eradicated from the earth. For this [reason], you will find the people of Sunnah and hadith the least of men in disagreement, for indeed there is no group on the face of the earth more in agreement and less in disagreement than them, since they are premised on this foundation. And every time a group is further away from hadith, disagreement amongst them is more severe and more frequent, since rejection of the truth causes confusion about their condition, and the way of truth becomes confused for them, so they do not know where to go, just as He (Exalted is He) said: "Nay, but they have denied the truth when it came unto them, therefore they are now in a confused state." (50:5)[94]

This is baseless in its entirety, and we are astonished by it. Where has his knowledge, his intelligence, his integrity and his balance gone such that he says what none but an ignoramus or an obstinate and stubborn person says? For he claims that in his (Allah bless him and grant him peace) statement, "For indeed, he who lives from amongst you after me, will see much conflict," is a rejection of *taqlid* and nullification of it because disagreements increase due to *taqlid*, and he does not understand that *taqlid* is a cause for consensus of opinion not division, while disagreement only arises when *ijtihad* and different opinions increase. Hence, whenever *ijtihad* increases, disagreement increases. If everyone became a *mujtahid*, acting on what he believes and understands from the Qur'an and hadith, you will never find two people agreeing. So, can any sane person claim that *taqlid* causes division and conflict? If it were as he says, why did the Prophet (Allah bless him and grant him peace) direct [us] to obey the Sunnah of the righteous caliphs? If the meaning of following their Sunnah was following one's personal *ijtihad*,

[93] This is an allusion to Qur'an 3:64
[94] Ibn al-Qayyim, op. cit. 3:556

how would such following diminish the frequency of disagreements? Moreover, was the cause of the increased conflict that the Prophet (Allah bless him and grant him peace) foretold *taqlid* or *ijtihad*? No sane person will say the first, so the cause must have been the second. Hence, the hadith commands *taqlid* of the people of truth, and does not give every individual exclusive right to his own opinion as this speaker claims.

What he said, that the devotees of *taqlid* "split the religion, and divided its adherents into sects, each sect supporting its authority and inviting to it, condemning any who contradict it, while not believing in acting according to their opinion, so it was as though they were a separate religion apart from them," it is a baseless statement because this is not dividing the religion and splitting its adherents into sects. If it were as he said, this would be an attack on the Imams of religion and the Sahabah and Tabi'in, because they were the ones who split into *madhhab*s, and as far as the *muqallid*s are concerned, they did nothing but follow them in this and adhere to them. As for the claim of inviting to their *madhhab* and condemning those who contradict them and not believing in acting upon their opinion, they are slanders against them, since they do not invite to their *madhhab* and do not condemn those who contradict them; rather, they believe the *madhhab* of every *mujtahid* is acceptable to follow. Yes, they condemn those who prohibit people from doing *taqlid* of the Imams and deem *ijtihad* obligatory upon them, and invite people to their innovated *madhhab*, newly-invented with all types of confusions and errors. This condemnation from them is not worse than the condemnation with which the group that abandons *taqlid* condemns them, so if this is blameworthy, then the abandoners of *taqlid* are more deserving of it, and if it is not blameworthy then attacking it is worse and more repulsive.

As for what he said, that it "is incumbent on everyone to submit to a common word between all of them, and not obey [any] besides the Messenger and not make along with him one whose opinions are equivalent to his statements, some of them not taking others as lords besides Allah," the reply to it is that the *muqallid*s are, by Allah's praise, agreed on this, but it is not in their capacity to block the minds of non-*muqallid*s who contend and argue with them using falsehoods and invite them to that which will corrupt their religion for them by means of distortions and insinuations that have spread amongst the ignorant who cannot distinguish between sound and unsound, wet and dry, wood and snake, and they cut their connections with the Imams of guidance, and surrender them to the ghouls and devils.

As for what he said, that "if their word agreed on this, and every one of them submitted to one who invites to Allah and His Messenger, and they judged between themselves by the Sunnah and the narrations from the Sahabah, disagreement will be less, even if it is not [totally] eradicated from the earth," it is completely baseless, because it is acknowledged that opening the door of *ijtihad* results in more disagreements not less, and the cause of less disagreement is only *taqlid*, and the one who denies [this] is an obstinate person. Moreover, every inviter, whether right or wrong, claims only that he is calling to Allah and His Messenger and is judging by the Sunnah, so if people turned to every inviter [who claims to] judge by the Sunnah, it would result in evil, chaos, argumentation and dispute as is not hidden. If you were to look with a sound vision and carefully consider with the eye of judiciousness, you will see that the cause of all that occurred from tribulations, heresies and sectarianism, was the abandonment of *taqlid* and admiration of one's [personal] opinion. So when the jurists saw this, they made it obligatory for the laypeople to do *taqlid* of the religious and lordly 'ulama, saving [them] from evils and tribulations till that [time] Allah willed.

Then, when the sect prohibiting *taqlid* of the Imams arose, and invited people to their *taqlid* in abandoning *taqlid* using all kinds of insinuations and distortions, the doors of evils and tribulations opened upon them after being closed, such that a large group of the adherents to Islam came out of

Islam and entered into clear disbelief and open apostasy, while believing that they were doing good[95], and despite this they did not come out of the sphere of *taqlid* because they imitated their misguided and misguiding imams and the *taqlid* which they abandon is *taqlid* only of the guiding and guided Imams. Allah protect us from wrong understanding and the misfortune of ignorance.

As for what he said, that "for this [reason], you will find the people of Sunnah and hadith the least of men in disagreement," I do not know what to say to this – is it ignorance or impudence or stubbornness and obstinacy? If we said that the bulk of the divergences and disagreements were amongst only the people of hadith, while the rest of humanity follow them, it would be accurate. Leave [aside] those you call "the advocates of opinion" (*ashab al-ra'y*) and you do not count as "the people of hadith" (*ahl al-hadith*), and take those you call "the people of hadith" like Ahmad, al-Shafi'i, Malik, al-Bukhari, Muslim, Abu Dawud, al-Nasa'i and their teachers and the teachers of their teachers till the Sahabah, do you find them agreeing on the principles of authenticating and weakening, criticising and accrediting, judging and deriving, and in their branches and particulars? You will have to say, "No." Then we will ask you, "Were their disagreements little or much?" and you must say, "Much," rather more than "much." If we were to assume that every man followed one *mujtahid* from them, imagine to what degree disagreements would reach. And if we were to assume that none of humanity followed any of them, rather everyone did his own *ijtihad*, to what degree will disagreements reach? This discussion is restricted to the people of Sunnah and guidance only, and if we broadened the discussion to [include] the people of falsehood also, the matter would worsen, and disagreements will reach a countless degree. Is this disagreement a little disagreement? If you were just, you would say that it is from the mercy of Allah and His blessings on this ummah that He guided them to following four of the Imams of guidance, and saved them from excessive and abhorrent disagreements which this isolated, lone group that abandons *taqlid* and invites people to abandon it, calls to.

'Umar's Advice to Decree According to what the Righteous have Decreed

Then he transmitted the *muqallid* adducing as proof that 'Umar wrote to Shurayh to "decree by that which is in the Book of Allah, and if it is not in the Book of Allah, then that which is in the Sunnah of Allah's Messenger and if not in the Sunnah of Allah's Messenger, then by what the righteous have decreed,"[96] and he replied to it saying that:

> This is from the most obvious proofs against you in invalidating *taqlid* because he commanded him to prefer the decree in the Book of Allah over all that is besides it, and if he does not find it in the Book and he finds it in the Sunnah, he is not to turn to other than it, and if he does not find it in the Sunnah, he is to decree by what the Sahabah decreed, and we adjure, by Allah, the sect of *taqlid*, are they like this or close to this? When a case befalls them, does the mind of any of them incite them to take its ruling from the Book of Allah and then implement it, and if he does not find it in the Book of Allah, he takes it from the Sunnah of Allah's Messenger (Allah bless him and grant him peace) and if he does not find it in the Sunnah, he issues a fatwa upon in according to what the Sahabah decreed? Allah and the angels are witness upon them and they are witness over themselves that they only take its ruling from the opinion of the one they imitate, and if the opposite of that becomes clear to them from the Book or the Sunnah or the statements of the Sahabah they do not turn to it, nor do they accept any of it except through the

[95] This is an allusion to Qur'an 18:104

[96] Al-Nasa'i narrated it in *al-Sunan al-Kubra* with a sound chain (Abu 'Abd al-Rahman Ahmad ibn Shu'ayb al-Nasa'i, *al-Sunan al-Kubra*, ed. Shu'ayb al-Arna'ut, 1421 H/2001 CE, Beirut: Mu'assasat al-Risalah, 5:406)

> opinion of the one they imitate. Hence, 'Umar's letter is from the greatest and most devastating proofs in invalidating their opinion.[97]

This is from the most revolting of speech and the most disingenuous because the objective of the one adducing evidence was to establish that the ignorant person's *taqlid* of an 'alim is a ruling from the rulings of the Shari'ah and is not completely invalid as this speaker and others claim, and this much is immediately established from the statement of 'Umar. Hence, the evidence adduced by the one adducing evidence is valid.

As for what this speaker argued against it, it stems from a feeble understanding, because the one 'Umar addressed was a *mujtahid* well-versed in the Book of Allah, the Sunnah and the statements of the 'ulama, capable of *ijtihad*, and was not from the laypeople who do not know the Book of Allah and the Sunnah, nor the statements of the 'ulama, nor are they able to deduce and derive, so how can they be addressed by this and be obligated to put the Book of Allah ahead, then the Sunnah and then act according to the statements of the 'ulama? Rather, their condition in all issues is similar to Shurayh's condition in an issue on which he does not find a ruling from the Book and Sunnah, so they are obliged in every issue to take recourse in the 'ulama to clarify for them the ruling from the Book, the Sunnah and the statements of the 'ulama.

Hence, the letter of 'Umar is a proof against this speaker, his followers and his partisans, not the *muqallid*s. His construal of it as a proof against the *muqallid*s is from the most abominable of assessments and the ugliest of opinions.

There is no difference between the statement of 'Umar and the statement of one who says that he "first considers if there is any disagreement in the issue or not, and if there is no disagreement therein he does not look at the Book or the Sunnah, rather he issues fatwa and decrees on that [issue] according to Ijma', and if there is disagreement therein he exercises *ijtihad* to [discover] the opinion closest to proof, and he issues fatwa according to it and decrees according to it,"[98] because the imams of Islam have sufficed the burden of looking into the Book and the Sunnah, so after their Ijma' on a ruling there is no need to refer back to the Book and Sunnah.

Yes, if they differed amongst themselves, he reflects on which opinion from them is closest to the Book and Sunnah, so he will then need to refer back to the evidence. Hence, it is clear from this that there is no preference therein of Ijma' over the Book and Sunnah as this speaker understood from it, rather it is because he knows that Ijma' will not convene except after recourse to the Book and Sunnah so there is no need for us to refer [to them] because their referral avails us of our referral, so understand this. [The question] remains: Is it possible to know if Ijma' has occurred or not? This is another matter, and the discussion is based on the assumption that knowledge [of consensus] has occurred, so it cannot be criticised based on what Ahmad said, "Whoever claims Ijma' in any issue, he is a liar. Perhaps the people differed and it did not reach him. He should, however, say: 'We are not aware of the people differing.'"[99] It also does not contradict what al-Shafi'i said, "Proof is the Book of Allah, the Sunnah of His Messenger and the agreement of the Imams,"[100] because the sequence [of preference] differs based on different considerations.

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[97] Ibn al-Qayyim op. cit. 3:557
[98] Ibid. 3:557-8
[99] Ibid. 3:558-9
[100] Ibid. 3:559-60

What he said, that the Book and Sunnah are equivalent to water and the opinions of men are equivalent to *tayammum* in the absence of water[101], the reply to this is that it is correct but the validity of *tayammum* is proof of the absence of water, and likewise Ijma‘ on a matter is proof of the absence of its opposite in the Book and Sunnah. Hence, the criticism is rejected.

Then he said:

> Then after these people, a sect arose who were the enemies of knowledge and its people, saying: "When a case comes before a mufti or a judge, it is not permissible to consult the Book of Allah or the Sunnah of His Messenger or the statements of the Sahabah therein, rather [one must consult] what the one he imitates and the one he made a standard over the Book and Sunnah says, so whatever concurs with his opinion, he issues fatwa upon it and decrees by it and whatever opposes it, it is not permissible for him to issue fatwa and decree by it, and if he does that, he will be subjected to removal from the position of issuing fatwa and passing judgement." The question is brought against this: "What do you say of the chiefs and jurists of those who are affiliated to the *madhhab* of a specific Imam he imitates besides others, and then he issues a fatwa or decrees in opposition to his *madhhab*, is that permissible for him or not, and is he blamed for this or not?" The *muqallid*s shake their heads and say: "That is not permissible for him and he is blamed for this."
>
> It is probable that the opinion he turned to was the opinion of Abu Bakr, ‘Umar, Ibn Mas‘ud, Ubayy ibn Ka‘b, Mu‘adh ibn Jabal and their likes, and this person who was appointed to make pronouncements from Allah and His Messenger replies that it is not permissible for him to oppose the opinion of his authority in favour of the opinions of those more learned about Allah and His Messenger than him, even if the Book of Allah and the Sunnah of His Messenger is in support of their opinions. This is from the greatest of crimes [committed] by this sect of *taqlid* in the religion. Had they stuck to their level and their position and [only] gave information that was free of what they found of blackness in the white, from opinions of which they have no knowledge of their accuracy or inaccuracy, it would be some form of excuse before Allah. However, this is their extent in knowledge, and this is their hostility to its people and those who stand for its proofs.[102]

This is a baseless attack because the speech of the *muqallid*s is premised on a sound basis, established from the Book, the Sunnah and Ijma‘ which is the impermissibility of *ijtihad* for the unqualified, while his speech is premised on an unsound basis which is the obligation of *ijtihad* on everyone, whether qualified or unqualified. Hence, their speech is correct and his invective which is a result of misunderstanding is invalid.

What he said, that it is possible that the opinion he turned to was the opinion of Abu Bakr, ‘Umar, Ibn Mas‘ud etc. and they are more learned of Allah and His Messenger than the one who the *muqallid* is following, the reply is that although this is true, his authority is more learned about the opinion of Abu Bakr, ‘Umar, Ibn Mas‘ud and others than this transmitter, so it is probable a proof more stronger than the opinion of these individuals escaped him; and since this possibility is apparent, how is it permissible for this ignorant person to declare his authority wrong and leave his opinion while recognising his ignorance by making *taqlid* duty-bound [on himself]?

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[101] Ibid. 3:560
[102] Ibid. 3:560-1

What was said, that he knows the accuracy of their opinion from the Book and the Sunnah, this is baseless because his authority is more well-acquainted than him of the Book and Sunnah, so it is possible he has with him an interpretation of the Book and Sunnah besides the interpretation of this ignorant person, and the interpretation of a *mujtahid* is superior to the interpretation of an ignorant person, so how is it permissible for him to declare his authority wrong using an inferior interpretation? It is apparent from this elaboration that all that he said in this subject is completely worthless and superfluous, despite his belief that it is verification and erudition. Thus, when the condition of these verifications and these eruditions is as you see, how is it possible for anyone to allow *ijtihad* for them, and leave them to misguide and be misguided? So, understand this.

The Sahabah's *Taqlid* of 'Umar

Then he adduced as proof for the *muqallid* that 'Umar forbade the selling of the *umm al-walad* (a slavegirl who bore her master's son) and the Sahabah followed him[103], and he enforced three divorces and they also followed him[104], and he replied to this saying:

Firstly, that this was not *taqlid* of him, rather agreement with him[105]. This is baseless because 'Umar did not argue with them using a proof such that it can be said that they made their decision based on that evidence and not the opinion of 'Umar. Rather, they followed him based on their belief that he would not say that except due to a proof with him, which is *taqlid*.

Secondly, that they did not all follow him, rather Ibn Mas'ud opposed him in selling the *umm al-walad* and Ibn 'Abbas in enforcing three *talaq*s[106][107]. This is also baseless because our proof for the permissibility of *taqlid* is the *taqlid* of the ones who did imitate him and the disagreement of the ones that disagreed with him does not harm us because they were *mujtahid*s who were allowed to disagree.

Thirdly, if the Sahabah did *taqlid* of 'Umar in two issues, how is it permissible for you to leave his *taqlid* for *taqlid* of one who is much less than him?[108] This is baseless because the Sahabah did *taqlid* of 'Umar in some issues and left his *taqlid* in some, and our Imam did *taqlid* of 'Umar just as the Sahabah did *taqlid* [of him], and we do *taqlid* of our Imam likewise, so we do not leave the *taqlid* of 'Umar, rather we do *taqlid* of him just as the Sahabah and our Imam did *taqlid* of him. If you say: "Why do you not do *taqlid* of your Imam like the Sahabah and your Imam did *taqlid* of 'Umar?" We say: "They were *mujtahid*s following proof whenever it became clear to them, often leaving the opinion of 'Umar in favour of a stronger proof than it, and they would do *taqlid* of him when no proof was clear to them. We are not like the *mujtahid*s, so we have nothing but *taqlid*." If you say: "Why do you not do *taqlid* of one more learned than him?" We say: "The obligation is to do *taqlid* of a knowledgeable person and there is no obligation to do *taqlid* of the most learned." If you say: "Although it is not obligatory, it is superior, so why do you leave [what is] superior?" We say: "*Taqlid* of Abu Bakr is superior to 'Umar although the Sahabah did *taqlid* of 'Uamr in these two issues and not Abu Bakr, so the [condition of]

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[103] Abu Dawud narrated with a sound chain from Jabir ibn 'Abd Allah: "We sold the *umm al-walad* in the time of Allah's Messenger (Allah bless him and grant him peace) and Abu Bakr, and then when 'Umar forbade us we stopped." (Abu Dawud op. cit. 4:360)
[104] Muslim narrated in his *Sahih* from Ibn 'Abbas: "Three divorces equated to one in the time of Allah's Messenger (Allah bless him and grant him peace), Abu Bakr and two years from the caliphate of 'Umar and then 'Umar ibn al-Khattab said: 'Verily the people hasten in a matter they used to have patience, so we should enforce it on them,' so he enforced it on them." (Muslim, op. cit. p. 677)
[105] Ibn al-Qayyim, op. cit. 3:561
[106] Ibn 'Abbas's authentic opinion is in fact in agreement with the majority of jurists, that three divorces pronounced together are all effective and do not equate to a single divorice, as explained by al-Bayhaqi in his *al-Sunan al-Kubra* (al-Bayhaqi, *al-Sunan al-Kubra*, op. cit. 7:551-4)
[107] Ibn al-Qayyim, op. cit. 3:561-2
[108] Ibid. 3:562

superiority is also rejected. The truth is that we do not know the opinions of ‘Umar and Abu Bakr and others from the Sahabah in every chapter of the chapters of *fiqh* like we know the opinions of our Imam, so it is easy for us to do *taqlid* of him and not *taqlid* of them. This is the reason for leaving *taqlid* of them, not because we prefer our Imam over these elite Imams.”

Then he adduced as proof for the *muqallid* that ‘Amr ibn al-‘As said to ‘Umar when he had a nocturnal emission, “Wear a garment besides your garment,” and he said “If I did this, it would become a Sunnah,”[109] and he replied to it saying:

> Where in this is there permission from ‘Umar to do *taqlid* of him and turn away from the Book of Allah and the Sunnah of His Messenger? The outcome of this is that he left it so that someone who sees him does not imitate him and practices it, thinking that if this was not the Sunnah of the Messenger of Allah (Allah bless him and grant him peace), ‘Umar would not have done it. Hence, this is what ‘Umar feared. People follow their ‘ulama whether they wish [it] or refuse, so this was the reality even if the obligation in this is to make distinctions.[110]

This is a baseless reply because it is known that the method of doing *taqlid* of the ‘ulama was prevalent in that time and widespread, and neither he nor others denounced them for this method, and this is sufficient for us as proof. It is strange that this *mujtahid* does not understand the speech of the *muqallid*s, so how [is it possible] for him [to understand] the speech of Allah and His Messenger? Despite this, he claims *ijtihad* and invites those like him or less than him to it.

The Fatwas of the Sahabah and the People’s *Taqlid* of them

Then he adduced as proof for the *muqallid* that the Sahabah would issue fatwas at the time of the Prophet (Allah bless him and grant him peace) and the people would do *taqlid* of them, and he (Allah bless him and grant him peace) did not condemn them for this, and he replied to it, saying:

> That was only transmission from Allah and His Messenger, and they were at the level of reporters only. Their fatwa was not *taqlid* of the opinion of so-and-so and so-and-so even if it contradicted the texts. Hence, they would not do *taqlid* within their fatwas and would not issue fatwa without the texts, and the questioners would not rely but on what they conveyed to them from their Prophet (Allah bless him and grant him peace), saying, “He commanded such-and-such,” “he did such-and-such,” “he prohibited such-and-such.” Such was their fatwa.[111]

This is an answer ignorant of their conduct or obstinate and stubborn in [the face of] reality, because the Imams of the *muqallid*s also transmit from Allah and His Messenger that which they substantiate as proofs from the Shari‘ah, just as the Sahabah would do. Hence, the proof for the *muqallid*s in this is complete and rejection is obstinacy or ignorance.

His statement, that “the questioners would not rely but on what they conveyed to them from their Prophet (Allah bless him and grant him peace), saying, ‘He commanded such-and-such,’ ‘he did such-and-such,’ ‘he prohibited such-and-such,’” is baseless because they would rely on their opinions when they stated clearly that they said this based on their opinion, just as this speaker himself transmitted from Abu Bakr that when he issued a fatwa to them regarding *kalalah* and he said that he said this based on his own opinion, whether wrong or right, the people relied on his fatwa, and it was transmitted from Ibn Mas‘ud and others as well. Hence, his claim is completely baseless.

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[109] Malik narrated it in his *Muwatta’* (Malik ibn Anas, *al-Muwatta’*, ed. Salim ibn ‘Id al-Hilali, 1424 H/ 2003 CE, 1:315-6)
[110] Ibn al-Qayyim, op. cit. 3:562
[111] Ibid. 3:563-4

Then he said:

> The Prophet (Allah bless him and grant him peace) condemned the one who issued fatwa against the Sunnah, just as he condemned Abu al-Sanabil and called him a liar[112] and he condemned the one who issued fatwa to stone the fornicator, and he condemned the one who issued fatwa for the injured man to bathe until he died, and he condemned the one who issued fatwa without knowledge, like one who issues fatwa without knowing its accuracy, and he said that the sin of the one seeking fatwa is on him.[113]

The reply to this is that the Prophet's (Allah bless him and grant him peace) condemnation of these [individuals] is a clear proof for us not for him because Abu al-Sanabil did not issue fatwa by mere opinion, rather he issued fatwa based on His (Exalted is He) statement, "Those of you who die and leave wives behind, they should keep themselves in waiting for four months and ten days" (2:234), and despite this, he (Allah bless him and grant him peace) repudiated him. Similarly, the one who issued fatwa of stoning for the unmarried fornicator, he issued the fatwa based on the Sunnah, since he saw the Messenger of Allah (Allah bless him and grant him peace) stoning Ma'iz and others, so he understood from this that this is the punishment of both the fornicator and adulterer, and despite this the Messenger of Allah (Allah bless him and grant him peace) condemned him. Similarly, the one who issued fatwa of bathing for the injured man, issued fatwa based on the Book of Allah (Exalted is He) where He said, "And you find not water, then go to clean, high ground, and rub your faces and your hands" (5:6), so he understood that the permissibility of *tayammum* was conditioned on the absence of water and the injured man was not someone who could not find it. All of this proves that the Messenger of Allah (Allah bless him and grant him peace) did not allow everyone to issue fatwa from the Book of Allah and the Sunnah of His Messenger before his knowledge became complete, and that he (Allah bless him and grant him peace) considered incomplete knowledge a condition that necessitates asking the people of knowledge. Hence, it is a proof for us not for him. His condemnation of one who issues fatwa without knowing its accuracy and placing the sin of the questioner on him, is a proof for us and not for him, as has passed before.

Allah's Command for a Group to Stay behind and Gain Understanding in the Religion

Then he adduced as proof for the *muqallid*s His (Exalted is He) statement, "If of every troop from them, a party should go forth [to fight], that they [who are left behind] may gain sound knowledge in religion, and that they may warn their folk when they return to them," (9:122) and he replied to it saying:

> There is nothing in this verse that demands the accuracy of the opinion supporting blameworthy *taqlid*, rather it is proof of its depravity and its invalidity since warning is only substantiated by proof, so whoever does not substantiate proof has not given warning. And just as the warner is the one who substantiates proof, whoever does not produce proof, he is not a warner. If you call that *taqlid*, there is no problem in names, and we do not condemn *taqlid* in

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[112] Ahmad narrated this incident with a sound *mursal* chain as follows: Subay'ah bint al-Harith delivered her child 15 nights after the death of her husband. Abu al-Sanabil entered upon her and said, "It appears you are contemplating marriage? You may not do this until the furthest of the two appointed times ends." Thereupon she went to Allah's Messenger (Allah bless him and grant him peace) and she informed him of what Abu al-Sanabil had said. Allah's Messenger (Allah bless him and grant him peace) then said: "Abu al-Sanabil has lied! When one you are pleased with comes to you [for marriage], bring him to me." And he informed her that her waiting period (*'iddah*) had ended. (Ahmad op. cit. 7:305-7). The report is also found in the two *Sahih*s of al-Bukhari and Muslim without the explicit condemnation of Abu al-Sanabil (Al-Bukhari, op. cit. p. 543, Muslim, op. cit. p. 691). The "two appointed times" (*ajalayn*) refers to the two different periods of waiting mentioned in the Qur'an for a widow, four months and ten days (2:234) or until the termination of her pregnancy (65:4).

[113] Ibn al-Qayyim op. cit. 3:564

> this sense, so call it whatever you want. We only condemn appointing a specific man whose opinion is made a standard over the Qur'an and Sunnah, such that whatever agrees with his opinion is accepted and whatever contradicts it is rejected, and his opinion is accepted without proof while the opinion of his equal or of one more learned than him is rejected even if the proof is with him. This is what we condemn, and every 'alim on the face of the earth condemns this and condemns its adherents.[114]

This is all sophistry because if he means by proof specific proof it entails that the Messenger (Allah bless him and grant him peace) was not a warner because he did not substantiate specific proof for every statement and action [that issued] from him by saying, "Allah commanded me such and such" or "I derived this from this specific verse," and if he means by it general proof, this is found in what we are discussing also because the Imam being knowledgeable of the Book of Allah, virtuous in the religion of Allah, not intending to go astray and lead astray, is proof for accepting his opinion in whatever he says. This proof is found in those "who gain sound knowledge in the religion," who "warn their folk when they return to them," and it is the basis for their warning, whether they narrated hadith from the Prophet (Allah bless him and grant him peace) or issued fatwa based on what they knew without transmitting narrations, and both types are included in "warning." This is indicated by His statement, "may gain sound knowledge in religion, and that they may warn their folk," because if warning was only by transmitting revelation, He would say, "may know what revelation was sent down and inform their folk when they return to them," and since He did not say this, rather He said, "may gain sound knowledge in religion, and that they may warn their folk," this proves that "warning" is not via transmission alone, rather by issuing fatwa after deeply understanding; so understand. If this speaker does not denounce this *taqlid*, the agreement is excellent, and if he does denounce it, he is confuted by the verse and other proofs.

As for what he said, "We only condemn appointing a specific man..." the [fallacy] in this is that we do not believe in appointing such [a person] and we also condemn this. We only refer to an 'alim who teaches us the laws of Allah and His Messenger (Allah bless him and grant him peace) as he understood it from the evidences, for we are ignorant of the rulings from the proofs by means of *ijtihad*, or are incapable of giving preference to one of the differing opinions. We do not accept his opinion without proof because proof for us is his being well-versed in the laws of Allah and His Messenger and fearful of Allah lest he deliberately lies and concocts [false information] about Allah and His Messenger by attributing to the Shari'ah what is not from it while knowing that it is not so. We do not reject the opinion of one who contradicts him whether he is more learned than him, equal to him or less than him, whether he has proof or is without proof, but we just don't do *taqlid* of him. That is [because] we know that our Imam did not say what he said except due to a proof with him and whoever disputed him did not dispute him but due to a proof, so either we give preference to one of the two proofs over the other or we leave the statement of our Imam by doing *taqlid* of the opponent. Giving preference to proofs is not from the activity of the deficient *muqallid*, so the second possibility remains, and there is no reason to leave one of the two *taqlid*s for the other. Hence, there remains no reason to leave *taqlid* of the Imam and choose the opinion of the other. This is the reality of our *taqlid*. If this is praiseworthy *taqlid*, then stop condemning *taqlid* and return to the truth, and if it is blameworthy, explain to us the reason for it being blameworthy.

If you say: "You are capable of understanding the rulings from the proofs, and despite this you leave the proofs in favour of *taqlid*." We say: "If it was as he said, our condition is safer and less dangerous than the one who is not able to do *ijtihad* and despite this does *ijtihad* using his [own] opinion because

[114] Ibid. 3:565-6

disbelief and apostasy is feared for the one who leaves *taqlid*, as opposed to the one who does *taqlid* of an Imam from the Imams of Islam because there is no fear of disbelief or sin for him. Its utmost [possibility] is acting on an inferior [ruling] and there is no harm in that, especially since the superior [ruling] is also a matter of *ijtihad* with the possibility of error. The reason for acting upon it is not having confidence in his [own] opinion while having confidence in one who is more learned than him and more scrupulous, so understand this.

'Abd Allah ibn al-Zubayr's *Taqlid* of Abu Bakr

Then he adduced as proof for the *muqallid*s the statement of Ibn al-Zubayr when he was asked about [the inheritance of] the grandfather, he said, "As for the one concerning whom the Messenger of Allah (Allah bless him and grant him peace) said 'Were I to take an intimate friend (*khalil*) from the inhabitants of earth I would take him – meaning Abu Bakr – as an intimate friend,' he afforded him the same position as the father,"[115] and he replied to it saying:

> There is no proof in this for *taqlid* because the opinion of Abu Bakr is the preferred [opinion] from the perspective of proof, and Ibn al-Zubayr did not say this due to *taqlid*. Rather, he attributed the position to Abu Bakr in order to do draw attention to the eminence of the one who said it and that he is incomparable, not to accept his opinion without proof and abandon evidence from the Book and the Sunnah in favour of his opinion.[116]

This is a baseless reply because had Ibn al-Zubayr known this [ruling] from the Book and Sunnah, he would say "Allah said such" and "the Messenger said such" and would not attribute it to Abu Bakr because Allah and His Messenger are bigger, more eminent and greater than Abu Bakr, and since he did not say this, it indicates that he did not learn of it from the Book and Sunnah, rather he learnt of it from the *madhhab* of Abu Bakr, so he adopted it as his own opinion through *taqlid*, and he issued fatwa according to it. Similarly, he based its accuracy on it being the position of the most eminent of the Sahabah and the one most learned of the Book of Allah and His Messenger from them and the closest of them to Allah's Messenger (Allah bless him and grant him peace). Hence, this is the clearest proof for *taqlid*, and what this speaker said is closer to distortion than it is to interpretation.

Accepting Witness Testimony and *Taqlid*

Then he adduced as proof for the *muqallid* that Allah has commanded the acceptance of the testimony of a witness which is *taqlid* of him, and he responded to it saying:

> If there was nothing from the misfortunes of *taqlid* besides adducing this proof it would be sufficient to invalidate it because we do not accept his [i.e. the witness's] statement but because Allah (Exalted is He), His Messenger and the consensus of the Muslims commanded us to accept his statement…whereas you, assemblies of *muqallid*s, do *taqlid* of the opinion of your authority due only to it being said by him, not because Allah commanded you to accept his opinion and disregard the opinion of those besides him.[117]

How remarkable is the feeblemindedness and hollowness of this reply! If there was nothing from the misfortunes of the *ijtihad* of one incapable of *ijtihad* besides this reply it would be sufficient to invalidate it:

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[115] Al-Bukhari narrated it in his *Sahih* (al-Bukhari, op. cit. p. 497)
[116] Ibn al-Qayyim, op. cit. 3:566
[117] Ibid. 3:566-7

Firstly, because he made the invalidity of the proof adduced by the *muqallid* proof for the invalidity of *taqlid*, despite it being evidence of the obligation of *taqlid* for one unable to correctly adduce proof because if he trod [the path] of *ijtihad* he would corrupt [his] religion by his corrupt deductions.

Secondly, because his statement, "Allah (Exalted is He), His Messenger and the consensus of the Muslims commanded us to accept his statement" is either in regards to specific witnesses or with respect to them non-specifically; as for the first, it is obviously incorrect, and as for the second, it is conceded, but we do not accept that Allah did not command *taqlid* of the people of knowledge and following them in general. Has he forgotten His (Exalted is He) statement, "Ask the people of remembrance if you do not know" (16:43) and His statement, "Obey Allah and obey the Messenger and those endowed with authority amongst you" (4:59)?

Thirdly, because he said that "assemblies of *muqallid*s do *taqlid* of those they do *taqlid* of, only due to it having been said by him, not because Allah commanded it" and its fallacy is more obvious than it being hidden since if it were as he said, *muqallid*s would not need to establish the obligation or permissibility of *taqlid* from the Book and the Sunnah and the practice of the Salaf and the statements of the 'ulama while this speaker knows that the matter is not so, so this proves that they do not accept the opinion of the one they do *taqlid* of merely because he said it, but because Allah commanded them to [do] this, as did His Messenger, and the practice of the Salaf guided them to it. Hence, what he claimed of the distinction between accepting the testimony of a witness and accepting the opinion of a *mujtahid* has been falsified.

The Shari'ah Exhorts Deference to the Experts

Then he adduced as proof for the *muqallid* that the Shari'ah has come with acceptance of the opinions of a *qa'if* (a specialist in the art of examining physical features of people to trace relationships), *kharis* (an expert estimator of the quantity of dry dates that can be produced from fresh dates or raisins from grapes), *qasim* (a specialist who determines the shares of properties received by different parties in a disputed case), *muqawwim* (a specialist in valuing items) and the adjudicators of the equivalent in compensation for [killing] game (Qur'an 5:95), and this is pure *taqlid*, and he replied to it saying:

> Do you mean that this is *taqlid* of one of the 'ulama in accepting his opinions or do you mean that it is *taqlid* of them in what they informed? If you mean the first, it is incorrect, and if you mean the second, there is no [evidence] in it for that which you find comfort in, of *taqlid* on which proof has been erected on its invalidity. The acceptance of the statements of these [categories] is from the category of accepting the information of an informant and a witness, not from the category of accepting a fatwa in the religion without substantiating proof of its accuracy, rather due only to having good opinion of its speaker despite conceding that error is possible for him. Where is accepting information, testimonies and acknowledgements [in relation] to *taqlid* in fatwa?
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> The informant in these issues gives information about tangible things, the path of knowing which is to perceive them with the senses and the external and internal sensory organs. Allah (Glorified is He) has commanded acceptance of the report of the one who gives information about it when he is apparently honest and righteous, and vice versa. An example of this is accepting the report of one narrating from Allah's Messenger (Allah bless him and grant him peace) that he said or did [something], and accepting the report of one reporting this from him, and so on. This is indisputably true.

> As for doing *taqlid* of a man in what he says from his opinion, there is no more [certainty] in this than the knowledge that it is his opinion and *ijtihad*, so our *taqlid* of him in this is not from the same category as our *taqlid* of him in that which he informs from his sight, hearing and perception.[118]

This is a baseless reply because although this thing that he mentioned as the difference [between the two types of *taqlid*] may be applicable in the case of a witness, it is not possible in the case of a *kharis*, *qa'if*, the adjudicators of the equivalent in compensation for [killing] game etc. since they do not say what they say except by opinion and *ijtihad*, and since their statement [issuing] from [personal] opinion and *ijtihad* is a proof in the Shari'ah because they are qualified and have expertise and skill in these arts, why is the opinion of a *mujtahid* not a proof despite his being well-versed in the rules of Allah and His Messenger, skilful therein? Moreover, the narrator who says, "I heard so-and-so say such" or "I saw so-and-so do such" is not merely giving information from sense perception. Rather, *ijtihad* mixing with the report is more common, and [this is] more obvious than being hidden, because he does not transmit a narration like the transmission of the words of the Qur'an, rather he transmits the outcome of what he heard or saw according to what he understood from the statement or action. Therefore, since the report of the narrator, despite being mixed with opinion and *ijtihad*, is a proof that is obligatory to follow, how is the opinion of the knowledgeable *mujtahid* not a proof that is obligatory to follow, while most narrators are not *mujtahid*s and the possibility of error in understanding is greater for them than the possibility of error for a *mujtihad* in [his] *ijtihad*? Furthermore, it is possible the narrator lied but this is overcome by the apparent integrity which is premised on mere opinion and *ijtihad*. Since it is obligatory to accept the narration of a narrator due to his integrity that is suspected by an opinion that is possibly in error, then why is the statement of the *mujtahid* not accepted despite his expertise that is suspected by an opinion that is possible of error? In sum, that which he illustrated as the difference [between the two types of *taqlid*] is false and the proof adduced is sound.

Taqlid in Routine Interactions

Then he adduced as proof for the *muqallid* that they [i.e. the 'ulama] agree on the permissibility of buying meat, food, clothing etc. without enquiring about their lawfulness, sufficing with *taqlid* of their owners, and he replied to it saying:

> This is not from [the category of] *taqlid* in a ruling from the rulings of Allah and His Messenger without proof. Rather, it is sufficing with the acceptance of the statement of the slaughterer and seller, in adherence to the command of Allah and His Messenger; so that even if the slaughterer and seller was a Jew, a Christian or an open sinner, we would suffice with his statement on this… So is it permissible for you to do *taqlid* of the disbelievers and the iniquitous in religion as you do *taqlid* of them in slaughtered animals and food?[119]

This reply is baseless because what he claimed to be the distinction between the two *taqlid*s, that is that *taqlid* of a *mujtahid* is *taqlid* in a ruling from the rulings of the Shari'ah while *taqlid* of the seller and slaughterer is not *taqlid* in a ruling from the Shari'ah, is an ineffective distinction because the basic principle is that it is permissible [in regards to] the opinion of one who has proof on something to do *taqlid* of him in it. The opinions of the people of knowledge and *ijtihad* are a proof in what they inform of the rulings of Allah and His Messenger, so it is permissible to do *taqlid* of them in this. Hence, the proof adduced stands and the reply is falsified.

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[118] Ibid. 3:567-8
[119] Ibid. 3:569

As for his statement:

> Leave these weak arguments and enter with us into proofs that distinguish between right and wrong so we can make with you a pact of reconciliation that makes arbitrating by the Book of Allah and the Sunnah of His Messenger, and seeking judgement from them and leaving the opinions of men in favour of them, binding, and that we turn with the truth wherever it may be, and we are not partial to a specific person besides the Messenger whose speech we accept in its entirety and whose opponent's speech we reject in its entirety. Otherwise, bear witness that we are the first to reject this path, detest it and call [others] to oppose it.[120]

The reply to this is that the principle issue which we are debating is the issue of *taqlid* and leaving it. We have agreed with you to refer to the Book, the Sunnah and the practice of the righteous Salaf, and we trod with you the path of *ijtihad* to conform with your [rules] and we argued against you with proofs from the Book, the Sunnah and [other sources] besides them from proofs that are accepted by you. However, those proofs only increased you in aversion[121], and you rejected those proofs with various kinds of interpretations, nay distortions, and you claimed them to be weak proofs. You erected arguments against us from the Book and the Sunnah and [other sources] besides them according to what you understood. So what path is there for us in reconciling with you except that we make your opinion the opinion of an infallible, and we take you as lords besides Allah, permitting what you permit and prohibiting what you prohibit, which is unacceptable by agreement. Hence, there is no path to reconciliation with you, neither in *taqlid* nor in *ijtihad*. Since we realised after excercising *ijtihad* that the path of *taqlid* is sound, if we are right we deserve two rewards and if we are wrong we deserve one reward, as is accepted by you[122]. As for you, O assemblies of abandoners of *taqlid* and admirers of their personal opinions, [you] are in immense danger due to abandoning *taqlid* because abandoning it is the key to evils and tribulations, and multitudes have entered therein and were destroyed [themselves] and destroyed [others]. [We seek] protection from Allah.

Giving Permission for *Ijtihad* to the Unqualified Leads to Division

Ponder over the innovations of the Khawarij, Mu'tazilah, Batiniyyah, Jabariyyah, Qadariyyah, Qadiyaniyyah, Nijariyyah and others. Did people enter therein but from the door of *ijtihad* and seeking judgement from the Book of Allah and the Sunnah of His Messenger without being qualified for *ijtihad*, while abandoning *taqlid* of the Imams of religion? It is strange from you how such obvious matters are hidden to you.

Making *Ijtihad* Obligatory on everyone does not serve the Welfare of Humanity

Then he adduced as proof for the *muqallid* that if all people were charged with the responsibility of *ijtihad* and that they become 'ulama, the interests of the servants [of Allah] will be lost, and professions and businesses would cease, and this is from which there is no means to in the Shari'ah. He replied to it, firstly, saying:

> It is from the compassion of Allah (Glorified is He) to us and His mercy that He has not charged us with the responsibility of *taqlid*, for had He charged us with it, our activities would go to waste and our interests would be lost because we would not know who to do *taqlid* of

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[120] Ibid.
[121] This is an allusion to Qur'an 17:41
[122] This is in reference to a hadith in which the Prophet (peace and blessings be upon him) said: "When a judge decrees having exerted effort (*ijtahada*) and then he is right, he deserves two rewards, and if he decrees having exerted effort and then he errs, he deserves one reward." Al-Bukhari and Muslim narrated it in their *Sahih*s (Al-Bukhari op. cit. p. 1009, Muslim op. cit. p. 821)

> from the countless muftis and jurists that are scattered over vast areas of land, so had He charged us with it, we would fall into distress and decay. Moreover, if He charged us with *taqlid* of every 'alim, we would be charged with permission and prohibition simultaneously, and if He charged us with *taqlid* of the most learned, then learning what the Qur'an and Sunnah show of rules is far easier than discovering the most learned in whom the conditions of *taqlid* are found. In finding him there is great difficulty for the firmly-rooted 'alim, let alone the *muqallid* who is like a blind man. And if He charged us with *taqlid* of one ['alim] and He left the choice to us, the religion of Allah would become subservient to our wishes, choices and desires which is precisely impossible. So it is necessary that this [i.e. the obligatory *taqlid*] refers to the one Allah commanded [us] to follow and receive the religion from him, that is our master Muhammad (Allah bless him and grant him peace).[123]

This is sophistic speech because we prefer the [view] that the obligation is to do *taqlid* of one [*mujtahid*], i.e. one that is feasible for one to follow, after [recognising] that he is a scholar in the religion of Allah, fearful of Allah and obedient to Allah and His Messenger. This does not entail that the religion of Allah becomes subservient to our wishes, choices and desires because the religion of Allah is that which that 'alim informs us of the rules of Allah and His Messenger from Allah and His Messenger, not what our souls desire. Hence, this argument is invalid.

There is no doubt that Allah has commanded us to follow His Messenger. However, following him without a medium was not possible for everyone who [lived] in his time so he (Allah bless him and grant him peace) would send emirs, governors, judges and teachers to people, and they would teach them their religion according to what they knew from his Sunnah. Since the condition was such in his time, what of those between whom and the Messenger of Allah (Allah bless him and grant him peace) were long stretches of time? And since it is not possible for us to follow him without a medium, the medium is either the narrators of hadith who only say, "So-and-so narrated from so-and-so," and then it would be difficult for us to distinguish between the sound and defective [narrations], the established and non-established [narrations], and even if it was possible for us to distinguish [between them], then which hadith do we act upon and which hadith do we leave when discrepancies and contradictions arise within the authentic and sound narrations? So, how will it be possible for us to follow him (Allah bless him and grant him peace) [by this method]? And were we to do *taqlid* in this of the imams of hadith, there is in this the primary cause of corruption, *taqlid*, which you flee from like "frightened asses flee from a lion" (Qur'an 74:50-1).

Secondly, if we were to choose *taqlid* of any of the hadith-scholars, it would be difficult for us to choose who we would do *taqlid* of because they differ in the principles of criticism and authentication, identification of defects, and criticising and accrediting [narrators]. Furthermore, were we to select one of them by ourselves, it would entail that the religion of Allah is subservient to our wishes, choices and desires and it would also be difficult for us to reconcile between two contradictory [narrations] and specify a possible interpretation and even after specifying an interpretation, it cannot be said that he was right, rather the possibility of error from him is more likely than the possibility of error from a well-versed, expert and skilled *mujtahid*.

So we implore you, by Allah, O assemblies of abandoners of *taqlid*! Is it from Allah's mercy and compassion to His servants that He charges every one of His servants with traversing these difficult paths without insight and skill? And is traversing these paths easier than *taqlid* of a knowledgeable *mujtahid*? And does this traveller, who does *taqlid* of himself or another, deserve to be called a follower of the Messenger, while the *muqallid* of a *mujtahid* does not? If you say, "Yes," we say "Indeed we

[123] Ibn al-Qayyim, op. cit. 3:569-70

belong to Allah, and to Him we are returning!" and we pray to Allah to show you the realities as they are, and if you say, "No," then come back to *taqlid* and say what we say.

He replied to it secondly saying:

> In examination and adducing evidence, there is goodness in [our] activities, not a loss therein, and by forgoing it and doing *taqlid* of one who errs and is right there is squandering of them and corruption therein.[124]

This is baseless because we concede that in examination and adducing evidence there is goodness in [our] activities, but we ask you: "Is everyone capable of examination and adducing proof from the start of creation or is that capability dependent on acquiring [its requirements]?" If you say: "Everyone is capable of adducing proof from the start of creation," you have acted contrary to what is intuitively obvious, and if you say: "Capability is dependent on acquisition," we ask you: "Are these [requirements] easily acquired by everyone or are they not acquired except with difficulty and exertion?" If you say: "They are acquired easily," you have acted contrary to what is obvious, and if you say that "they are acquired with difficulty," we say: "Is everyone capable of it or not?" If you say: "Yes, everyone is capable of it," we say: "You have acted contrary to what is obvious," and if you say: "Not everyone is capable of it," we say: "Then, enforcing *ijtihad* on everyone necessitates burdening that great difficulty in acquiring the qualification, and taking on that difficulty in acquiring it would result in livelihoods and businesses being spoiled because, when all people engross themselves in acquiring this qualification, who will measure, and who will weave, and who will trade, etc?" Hence, the proof of the *muqallid* stands and the reply is invalidated, and it is known that which he said in reply is premised on his misunderstanding of the intention of the one adducing proof.

He replied to it thirdly saying:

> Every one of us has been commanded to confirm the Messenger in what He informed, and to obey him in what he commanded. That is not [possible] except after knowing his commands and his reports. Allah has not made it obligatory on the ummah [to know] of them except that in which there is preservation of their religion and worldly life and goodness in their livelihood and afterlife, and in neglecting it, its interests and its affairs are squandered.[125]

This is a baseless reply because we concede that confirming Allah and His Messenger is obligatory on everyone and that it cannot be achieved except by knowing the rules. However, we do not concede that knowledge of the rules is dependent on deliberation and adducing evidence for every particular ruling. Rather, it is sometimes achieved by deliberation and adducing evidence, and sometimes achieved by *taqlid*. Hence, the obligation of confirmation does not entail the obligation of deliberation and adducing evidence. Nor does knowledge being a cause for betterment necessitate that making deliberation and adducing evidence obligatory on everyone will be a cause for betterment. Hence, the reply is rejected. This reply also stems from a misunderstanding of the intent of the one adducing evidence.

He replied to it fourthly saying:

> The obligation on every servant is to know what concerns him from the rules [of the Shari'ah] and it is not obligatory on him to know that which no need demands its knowledge. There is no squandering of the interests of creation in this, nor a hindrance to their livelihood, for indeed the Sahabah took care of their interests, livelihoods and the maintenance of their lands, and

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[124] Ibid. 3:570
[125] Ibid.

> they tended their livestock, travelled the earth for their businesses, and traded in the markets, while they are the best guided of the 'ulama who are unsurpassable in knowledge.[126]

This is a baseless reply because that was nothing but the blessing of the *taqlid* of Allah's Messenger (Allah bless him and grant him peace) or *taqlid* of one who taught them their religion. Once they became knowledgeable of the rules by means of *taqlid*, the ability of *ijtihad* was acquired by them, and in the initial phase they were not in need of *ijtihad*, as we are in need of it in the initial phase. Moreover, in performing *ijtihad* they were not in need of the means which we require, like aptitude in the science of hadith, Arabic etc. Hence, analogising everyone to the Sahabah is a false analogy, and the reply is absolutely baseless and is a result of ignorance or obstinacy.

He replied to it fifthly saying:

> Beneficial knowledge is that which the Messenger brought, not the estimations of the mind, guesswork and riddles, and that, with praise to Allah, is the easiest of things on the minds to acquire, preserve and understand, because it is the Book of Allah (Exalted is He) which He facilitated for remembrance as He (Exalted is He) said: "Indeed We have facilitated the Qur'an for remembrance" (Qur'an 54:17, 22, 32, 40)…and the Sunnah of His Messenger is preserved and is reliable, since the fundamental laws which revolve around them are approximately five hundred hadiths, and its peripherals and elaborations are approximately four thousand.[127]

This is a baseless and strange reply from this speaker because he is an 'alim and is not like the ignoramuses of our age from the non-*muqallid*s, and despite this, he says something that none but one ignorant of the reality of *ijtihad*, its necessities and its conditions would say. It is sufficient to rebut him what he himself transmitted from al-Shafi'i that he said:

> It is not permissible for anyone to issue fatwa in the religion of Allah, except a man well-acquainted with the Book of Allah: its abrogator (*nasikh*) and its abrogated (*mansukh*), its decisive (*muhkam*) and its ambiguous (*mutashabih*), its interpretation and its revelation, its Meccan and Medinan [*sura*s], and what is meant thereby; and he must, thereafter, be insightful of the hadith of Allah's Messenger (Allah bless him and grant him peace) and of the abrogator and the abrogated, and have knowledge of hadith equivalent to the knowledge that he has of the Qur'an; and he must be insightful of language, insightful of poetry and all that is needed for [understanding] the Sunnah and the Qur'an; and he must use this with fairness (*insaf*); and he must, thereafter, be aware of the disagreements (*ikhtilaf*) of the people of the towns, and he must possess a natural talent thereafter. Once this is so, he may speak and issue fatwa on the lawful and the unlawful, and when this is not so, he may not issue fatwa.[128]

This is an Imam from the imams of hadith who stipulates all of these conditions for *ijtihad* in a single issue, and despite this, Ibn al-Qayyim says that knowledge of the Book and Sunnah, its acquisition, preservation and comprehension, is the easiest of matters on the minds. Is this but immense ignorance from this speaker or clear obstinacy? His (Exalted is He) statement, "Indeed We have facilitated the Qur'an for remembrance" (Qur'an 54:17, 22, 32, 40) only requires that remembrance and reflection [of the Qur'an] is easy, not that deducing [rulings] and drawing principles are easy.

The Imams' Permission to do *Taqlid*

[126] Ibid. 3:570-1
[127] Ibid. 3:571
[128] Ibid. 2:87

Then he adduced as evidence for the *muqallid* that the Imams have clearly stated the permissibility of *taqlid*. Hence, Muhammad ibn al-Hasan said, "It is permissible for an 'alim to do *taqlid* of one more learned than himself, and it is not permissible for him to do *taqlid* of one equal to himself." Al-Shafi'i expressed [the permissibility] of *taqlid* when he said in one instance, "I said this in deference to 'Umar" and in another instance, "I said this in deference to 'Uthman" and in another instance, "I took the opinion of Zayd and we take most of [the rulings of] *fara'id* (shares in inheritance) from him," and in another instance, "I said this in deference to 'Ata." Abu Hanifah said in the rulings pertaining to [impurities falling into] wells that he does not have with him but *taqlid* of those from the Tabi'in who preceded him in this. Malik did not leave the practice of the inhabitants of Madinah and he stated in his *Muwatta'* that he perceived the "practice" to be so and "this is what the people of knowledge of our lands have accepted," and he said in more than one instance, "I have not seen any who I follow doing this." And al-Shafi'i said with respect to the Sahabah, "Their opinion to us is better than our own opinions."[129]

He replied to it, firstly, saying that we have already narrated condemnation of *taqlid* from al-Shafi'i and others[130], which is a baseless reply because you are already aware that he understood them incorrectly.

He replied to it, secondly, saying that those who permitted *taqlid* were not more learned than those who prohibited it like Muhammad ibn al-Hasan since he was not more learned than Abu Hanifah and Abu Yusuf[131]. This is a baseless reply, firstly, because its prohibition has not been established from those more learned than him and it is the understanding of this speaker only and his understanding is not a proof. Secondly, it is not obligatory to do *taqlid* of the more learned as the more learned is not necessarily more learned in every issue.

He replied to it, thirdly, saying that:

> You strongly reject that those of the Imams you do *taqlid* of were *muqallid*s of others, so how can you argue using al-Shafi'i's and others' *taqlid* of 'Ata and others, and why do you not understand it as the agreement of two *ijtihad*s?[132]

This is also baseless because we do not always denounce an Imam's *taqlid* of [another] Imam, and the view of agreement is an explanation of the speaker's statement in a manner which he did not approve, since he has clearly stated *taqlid*, not agreement.

He replied to it, fourthly, saying that you oppose al-Shafi'i because you do not do *taqlid* of 'Umar, 'Uthman and Zayd[133], which is a baseless reply as has passed previously, so reflect.

He replied to it, fifthly, saying that the aforementioned Imams did not do *taqlid* of those they did *taqlid* of but in a few issues in which they found no clear text and this is the practice of the people of knowledge and is obligatory, thus *taqlid* is indeed permitted due to necessity, and as for the one who diverts from the Book and the Sunnah and the statements of the Sahabah and from learning the truth by proof, despite his ability to do this, to *taqlid*, then he is like one who diverts to carrion despite his ability to [consume] a slaughtered animal[134]. This is a baseless reply since he concedes therein the permissibility of a non-'alim doing *taqlid* of an 'alim which defeats everything that he said regarding the prohibition of *taqlid* because the *muqallid* does not do *taqlid* of anyone except after learning about

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[129] Ibid. 3:482
[130] Ibid. 3:573
[131] Ibid.
[132] Ibid. 3:573-4
[133] Ibid. 3:574
[134] Ibid

himself that he is not able to know the ruling from the Book and the Sunnah and the statements of the Sahabah because the *muqallid* is incapable of adducing evidence from the Qur'an and hadith as you know from the statement of al-Shafi'i, and their availability to him is equivalent to their unavailability, just like books of medicine for a sick person. Hence, the reply is rejected.

Taqlid is Natural

Then he adduced as proof for the *muqallid* that Allah (Exalted is He) made the students' *taqlid* of teachers and professors in all sciences and professions from the innate dispositions of [His] servants, and he replied to it saying that:

> This is a reality which no sane person can deny, but how does this necessitate the validity of doing *taqlid* in the religion of Allah and accepting the opinion of an authority without a proof that makes the acceptance of his opinion necessary...?[135]

This is a baseless reply because the student's *taqlid* of the teacher is only because the student is ignorant and does not know what he knows by his own deliberation and his [efforts at] adducing proof, while the teacher is learned, and this cause is found in the *muqallid* and *mujtahid*, so why is the ruling not realised in them?

Then he said:

> Rather, that which Allah disposed His servants to is seeking proof and evidence to establish the statement of a claimant. Hence, Allah (Glorified is He) established in the dispositions of people that they do not accept the opinion of one who has not established proof for the authenticity of his opinion. For this [reason], Allah (Glorified is He) erected decisive proofs, shining arguments, obvious evidences and brilliant signs on the integrity of His Messengers to establish proof and cut off any excuse, and this [was the case] although they were the most truthful of His creation.[136]

This is a baseless statement, the invalidity of which everyone who knows the conditions of the communities of the Messengers know, since they did not assent to their honesty, rather they strongly rejected them, so the erection of proof was only to refute their rejection not because they, due to the integrity of the Messengers, did not request proof from them. If it was a natural thing, it would be sought from them even after believing [them]. Rather, seeking evidence after acknowledging [the claimant's] integrity is contrary to [our] natural disposition because proof is to give preference to one of two possibilities and since the integrity of the speaker and his knowledge give preference to it, there is no need for another proof. Hence, it is clear that what he said, that "Allah's creation and His law is from the greatest of proofs against the group of *taqlid*"[137] is unfounded. The truth is that the creation and the law is a proof against the deniers of *taqlid*.

Variation in People's Intellectual Abilities is Proof of *Taqlid*

Then he adduced as proof for the *muqallid* that Allah (Glorified is He) created variation amongst the possessors of minds just as He created variation amongst the physically strong, so it does not befit His wisdom and justice to obligate on everyone knowledge of the truth in every issue from its evidence, and he replied to it saying that:

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135 Ibid. 4:11
136 Ibid.
137 Ibid. 4:12

> We do not deny this and we do not claim that Allah has obligated on all His creation recognition of the truth by its evidence in every issue from the issues of religion, its subtle [issues] and its manifest [ones]. We only condemn…appointing a single man and placing his fatwas at the level of the texts of the lawgiver, rather giving them precedence over them…; and adding to this [the belief] that he does not say except what is in the Book of Allah and the Sunnah of His Messenger, and this is despite its incorporation of a testimony of that which the witness does not know and speaking of Allah without knowledge; and declaring that one who disagrees with him has mistaken [the ruling] from the Book and the Sunnah even if he is more learned; and [declaring that] his authority is correct; or he believes both of them have made the correct [ruling] from the Book and Sunnah although their opinions contradict, and thus making the evidences of the Book and Sunnah conflicting and contradictory and [believing that] Allah and His Messenger decrees a thing and its opposite simultaneously; and his religion is subservient to the opinions of men…Thus, he either treads this path or he declares the one who disagrees with him wrong. One of the two matters is necessary for him. This is from the consequences of *taqlid* on him.[138]

And he said:

> We claim only that Allah has made fear and consciousness (*taqwa*) of Him according to their ability obligatory on everyone (Qur'an 64:16) and the essence of *taqwa* is knowledge by which one is protected [from sins] and then practice [according to it], so it is incumbent on every servant to expend his efforts to know what will protect him, of that which Allah has commanded and that which He has prohibited, and then he must follow Allah and His Messenger, and whatever is hidden to him, he has therein the precedent of his likes from those besides the Messenger, for some of what he brought is hidden to everyone besides him, and this will not exclude him from being from the people of knowledge.[139]

This is baseless speech because what he said is the role of a *mujtahid*, and as for the *muqallid*, his capacity to know the rules is through asking the people of knowledge, so that is incumbent on him, and since the obligation is to follow [the rules] by knowing the rules and this is possible by doing *taqlid* of an 'alim, there is no reason to make *ijtihad* obligatory on everyone, which is burdening [a soul] more than it can bear [which is negated in the Qur'an (2:286)].

His claim that the well-known [form of] *taqlid* is appointing a man to the level of the lawgiver is false as you know. Likewise, his claim that the belief that he [i.e. the Imam] does not say except what is in the Book of Allah and the Sunnah of His Messenger is bearing witness without knowledge, is also false because this is not bearing witness without knowledge, rather it is confidence in his knowledge, scrupulousness and God-consciousness, and this is not declaring the opponent wrong because just as he knows that his Imam does not speak but from the Book and Sunnah, similarly he believes that of his opponent also, so where is the declaration of [him being] wrong?

There remains [our reply to] this being a combination of two opposites in the law of Allah, and this is also baseless because he [i.e. the *muqallid*] believes that the law of Allah is the opinion of one of them while the other is excused, so if our Imam is right, then that [is good], and if he erred, then he is excused in his *ijtihad* and we are excused in doing *taqlid* of him, since there is not in our capacity but *taqlid* just as there is not in his capacity but *ijtihad* and each expends his effort to follow [the rules of

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[138] Ibid.
[139] Ibid. 4:12-3

Allah]. Hence, in *taqlid* there is no risk. That which he argued [against *taqlid*] of risks, that is [a consequence] of misunderstanding.

Taqlid is Akin to Following an Imam in Prayer

Then he adduced as proof for the *muqallid* that they are, in doing *taqlid*, at the level of a *ma'mum* (a follower in prayer) to an imam (the leader of a prayer) and the one followed to the follower like the rider with a guide. He replied to this saying that you are not so because you adopt the opinion of your authority because he said it, not because the Messenger said it, and if it were like this, you would turn with the Messenger wherever he turned, and if you followed your Imam, you would follow the proof and evidence as they followed [them][140], and the answer to this has passed with the clearest explanation, so reflect.

The Sahabah did not Compel New Muslims to become *Mujtahid*s

Then he adduced as proof for the *muqallid* that the companions of Allah's Messenger (Allah bless him and grant him peace) conquered lands while the people were newcomers to Islam, and they would issue fatwas to them and would not say to any of them: "You must seek knowledge of the truth of this fatwa from the evidence." He replied to it saying that:

> They did not issue fatwa to them according to their opinions, and they only conveyed to them what their Prophet said, did and commanded. Hence, that which they issued as fatwa was the ruling and the proof.[141]

The answer to this is that the claim that every fatwa they issued was by transmitting the statement of the Messenger of Allah (Allah bless him and grant him peace), his action and command is baseless as is not hidden to one who is aware of their fatwas. Even if this was the case, it would not be mere transmission, rather [it would be] mixed with *ijtihad* because he only transmits what he transmits according to what he understood from his statement, action or command, and the transmitter sometimes errs in this and is sometimes right. Thus, the upshot of their transmission is that "we understood from the statement, command and action of Allah's Messenger (Allah bless him and grant him peace) such-and-such" and the people would follow them in this, which is *taqlid*. Hence, the evidence adduced stands and the reply fails.

Taqlid is Necessary and Unavoidable

Then he adduced as proof for the *muqallid* that *taqlid* is from the necessities of the Shari'ah and of fate, and those who deny it are compelled to it, because in every transmitted proof with which you argue for the invalidation of *taqlid* you are *muqallids* of its transmitters and narrators, and there is not in the capacity of an 'alim but *taqlid* of the narrator, and there is not in the capacity of a judge but *taqlid* of the witness and there is not in the capacity of a layperson but *taqlid* of the 'alim. He replied to it saying that if *taqlid* was from the necessities of the Shari'ah, *ijtihad* would be from amongst its prohibitions, as establishing one of the two opposites negates the other[142]. Then he produced against himself a question, that "both of them are from the religion but one of them is more perfect than the other, so it is permissible to divert from the less virtuous to the more virtuous," and he resplied to it saying that

[140] Ibid. 4:13-4
[141] Ibid. 4:15
[142] Ibid. 4:16

"according to you, the door of *ijtihad* has closed, so how is diverting from *taqlid* to *ijtihad* a diversion from the less virtuous to the more virtuous?"[143]

This is baseless speech because both *taqlid* and *ijtihad* are from the necessities of the Shari'ah and there is no combination of two opposites therein, because *ijtihad* is for the 'alim and *taqlid* for the non-'alim, so where is the combination of two opposites when their subject-matters are different? Based on this, the question and answer are outside of their contexts.

He replied to *taqlid* of the transmitters of hadith that it is following the command of Allah and His Messenger, and is not blameworthy *taqlid*[144]. The answer to this is that if this is *ittiba'* (adherence), then our *taqlid* is also *ittiba'* of Allah and His Messenger due to the evidences proving the obligation of doing *taqlid* of an 'alim for a non-'alim, and just as the narrations of narrators are from the category of reporting, similarly the opinions of the *mujtahid* are also from the category of reporting due to *ijtihad* and Qiyas being a clarifier (*muzhir*) and not an establisher (*muthbit*). If *ijtihad* intervenes in the opinion of the *mujtahid*, it also intervenes in the narration of narrators due to the prevalence of narration by meaning amongst them, so what is the difference? Even if the difference between narration and fatwa is conceded, then what is the difference between the opinion of the imam of hadith that it is a hadith established from Allah's Messenger (Allah bless him and grant him peace) and the opinion of the *mujtahid* that this is the ruling established from Allah's Messenger (Allah bless him and grant him peace) when the hadith-scholar does not say this but by recourse to opinion and the *mujtahid* sometimes offers an opinion from the text and sometime offers an opinion based on the text? So what is your problem in making the opinion of the hadith-scholar a proof and you consider his *taqlid* obedience to Allah's Messenger (Allah bless him and grant him peace), while you don't consider the *mujtahid* thus? Is this but arbitrariness?

The *Muqallid*'s *Ijtihad* is Prone to Error

Then he adduced as proof for the *muqallid* that "you [i.e. the ignorant "*mujtahid*"] prevent *taqlid* fearing that the *muqallid* will fall into error in that the one he imitates may have erred in his fatwa, and then you make deliberation and adducing proof in search of the truth obligatory upon him, while there is no doubt that his being correct by doing *taqlid* of one more learned than him is more likely than his own *ijtihad*, like one who intends to buy an item with which he has no experience, because if he did *taqlid* of one knowledgeable about that item, informed of it, trustworthy and well-wishing, his being correct and acquiring his objective will be more likely than his own judgement (*ijtihad*)."[145] He replied to it saying that:

> We prevent *taqlid* in obedience to Allah and His Messenger, and Allah and His Messenger forbade it and He condemned its adherents in His Book: He commanded taking judgements to Him and His Messenger and to refer whatever the ummah disagrees on to Him and His Messenger (Qur'an 4:59), and He said that rule belongs to Him alone (Qur'an 12:40)…and He forbade taking protectors and lords besides Himself (Qur'an 9:31), those who take them [as such] permitting what they permit and forbidding what they forbid, and He made the one who has no knowledge of what He revealed to His Messenger at the level of cattle (Qur'an 25:44), and He commanded obedience to the possessors of authority (Qur'an 4:59) when their obedience is obedience to His Messenger in that they follow his command and report from him, and He swore by Himself (Glorified is He) that we do not believe until we give judgement

[143] Ibid. 4:16-7
[144] Ibid. 4:17
[145] Ibid. 4:18

> solely to the Messenger in whatever we disagree about amongst ourselves, and we do not give judgement to other than him and then we do not find in our souls hardship in what he decreed, as the *muqallids* find when his decree comes in opposition to the opinion of the one they imitate, and that we submit to his ruling in complete submission as the *muqallid*s submit to the one they imitate, rather a submission greater and more perfect than their submission (Qur'an 4:65), and Allah gives assistance. He condemned the one who seeks judgement from other than the Messenger (Qur'an 4:60), and this is established after his death as it was established in his lifetime…and He condemned those who, when called to what He revealed and to His Messenger, stop and turn away (Qur'an 4:61)…and He warned them that a tribulation will afflict them or a painful torment will afflict them (Qur'an 24:63)…and He (Glorified is He) said that when He decrees a matter on the tongue of His Messenger, it is not for any of the believers to choose from himself besides what He decreed, so the believer has no choice at all after He has passed judgement (Qur'an 33:36).[146]

This is a completely baseless statement as is not hidden to one who contemplates on our previous words, and we will increase you in clarification, so we say:

Whoever imitates one of the *mujtahid*s, he does not imitate him but for desire to [follow] what Allah revealed, not to turn away from it, and when non-*muqallid*s dispute with him, his referral to the *mujtahid* and not to hadith and Qur'an is not to judge by other than the Messenger, rather it is precisely giving judgement to the Messenger and seeking judgement from him because the *muqallid* and the non-*muqallid*s are the disputers, and the Qur'an and hadith are at the level of two witnesses, while the *mujtahid* well-versed in the Qur'an and hadith is like a judge representing Allah and His Messenger, and the purpose of seeking judgement from him to say: "O judge! This non-*muqallid* claims that the Qur'an and hadith certifies him and I say it is not so, so judge between us." Thereupon, the *mujtahid* says: "The non-*muqallid* is ignorant, he does not know the language of the Qur'an and he does not know hadith, and they certify you alone, so proclaim what you are commanded and turn away from the ignorant."

So where in this is there giving judgement to other than Allah and seeking judgement from him, and turning away from that which He revealed to the Messenger and referring a matter of dispute to other than Allah and the Messenger, as this speaker claims? This is made clearer by [the incident in which] Ibn 'Abbas disputed with Abu Hurayrah on *wudu'* breaking from what touches fire where Abu Hurayrah argued against him using hadith, but Ibn 'Abbas did not refer to hadith. Was that [equivalent to] seeking judgement from false deities and turning away from what Allah revealed and giving choice to himself apart from Allah and His Messenger? Far removed is he from this! So how is it correct for this speaker to argue in refutation of *taqlid* using the verses which he alluded to? This is plainly obvious but the non-*muqallid*s do not understand.

Then he said:

> We ask the *muqallid*s: "Is it possible that the decree of Allah and His Messenger is hidden to the one you defer your religion to in many places or not?" If they say: "That is not possible for him," they have afforded him a status above Abu Bakr, 'Umar, 'Uthman and 'Ali and all the Sahabah, for there is not one of them but some of what Allah and His Messenger decreed is hidden to him…and if they say: "Yes it is possible it is hidden to him,"…then we say: "We implore you by Allah…when Allah and His Messenger decree a matter hidden to the one you imitate, does there remain for you a choice between accepting it and rejecting it or do you

[146] Ibid. 4:18-9

> suspend your choice and deem it obligatory to act on exactly what Allah and His Messenger decreed, not permitting besides it? Prepare an answer to this question, and make truthful the answer, since the question is a reality and the answer is necessary.[147]

The answer to this is that we concede that some of the decrees of Allah's Messenger (Allah bless him and grant him peace) were hidden to the *mujtahids* and we agree that when one of his decrees were hidden to him, no one has a choice between accepting what the Messenger decreed and its rejection, but how can the *muqallid* know that the decree in question was hidden to the *mujtahid* despite the *mujtahid* claiming therein that it is not hidden to him since he issued a fatwa on it?

If you say: "Its hiddenness is corroborated by hadith and Qur'an which decree in opposition to it." We say: "How do we know that they rule in opposition to it?" If you say: "The hadith is *sahih* and the indication is clear," we say: "How do we know that the hadith is *sahih*?" If you say: "The narrators are trustworthy," we say: "How do we know that the narrators are trustworthy?" If you say: "So-and-so and so-and-so declared him trustworthy," we say: "How is it known that they were right in declaring [them] reliable, and if conceded, how do we know that they did not err in narrating since the trustworthy individual sometimes errs in narration?" If you say: "So-and-so and so-and-so declared the hadith *sahih*," we say: "How do we know that they were right in authenticating [it]? And if conceded, how do we know that it indicates [an opinion that is] in opposition to the *mujtahid*? It is possible it has an interpretation according to the *mujtahid* other than what you construe it to be, and if conceded, how do we know that it is acted upon, since it is possible that it is abrogated or overruled by stronger evidence? In such [a circumstance], where is the means for the *muqallid* to declare the *mujtahid* wrong and pass judgement about him that this specific decree is hidden to him?"

We impore you by Allah, assembly of abandonders of *taqlid*! Do you know that you err in authenticating and weakening hadith, criticising and accrediting narrators, understanding the indication [of texts] and the manner of reconciling between conflicting haidths and preferring some of them over others or not? If you say: "No," then you have claimed infallibility (*'ismah*) for yourselves, and if you say: "Yes," then who has informed you that you have not erred in that which you claimed, of the authenticity of the hadith and its indicaton being in opposition to what the *mujathid* opined and it not being abrogated and stronger than what the *mujtahid* adduced as proof for it? If you say: "None informed us but ourselves," we say: "The *mujtahid* opposes you in this and says: 'You have erred,' so how can we accept your opinion and leave his opinion when he is more learned than you?"

When you say, "Do not accept the opinion of anyone without proof," and you have no proof with you that you have not erred besides your opinion, so if we imitated you in your statement, "Do not accept the opinion of anyone without proof," it would be necessary for us to reject your statement, "This decree was hidden to the *mujtahid* and we are correct in this ruling," and if we accepted your opinion on the accuracy of your opinion and the inaccuracy of the *mujtahid* without proof it would necessitate for us leaving your statement, "Do not accept the opinion of anyone without proof," so what means is there for us to follow you while you contradict yourself in your statements? And what means is there for us to refer the matter to Allah and the Messenger and seek judgement from them?

It is clear that your principles require completely forsaking the religion, and leads us to pure deviation and absolute heresy, and Allah and His Messenger are free from them so they are free from your principles which lead to them. The rules premised on them are rules of desire and deviation, and are not the rules of Allah and the Messenger, so there is no safety, nor any recourse, but to *taqlid*, in which we take refuge. Allah guide us and you.

[147] Ibid. 4:19-28

He also said:

> Your statement, "The *muqallid*'s correctness in his *taqlid* of one more learned than him is more likely than his correctness in his *ijtihad*" is a false claim because the *muqallid* is like a blind man who does not know what has fallen into his hand, a wood or a snake, and the abandoner of *taqlid*, doing *ijtihad*, has two rewards in being correct and one reward in being incorrect, so how distant is the correctness of the blindman and his reward compared to the correctness of the seeing man who expends his effort?[148]

It is not hidden what this statement contains of ignorance, deviance, obstinacy and argumentation, since he made the *muqallid* like a blind man and the abandoner of *taqlid* a seeing man, despite his being more blind than the *muqallid*. If sight was [equivalent to] abandoning *taqlid*, it would entail that the one who follows most his personal opinions has most sight amongst humanity because he is furthest from *taqlid*, completely removed [from it]. And if *taqlid* was blindness, the one most obedient to Allah's Messenger (Allah bless him and grant him peace) would be the most blind of men because he is a pure *muqallid*. Hence, the seeing man sees the reality like the *muqallid*, and the blind man does not see it like the abandoner of *taqlid*, following his own guidance despite being blind while denouncing the *taqlid* of the seeing man and [his] guidance through it.

As for expending effort, if merely expending effort was a cause for reward, then the *muqallid* has indeed expended effort in following the truth because he knows that he has not in his ability but *taqlid* of an 'alim, so why will he be sinful, and deprived of reward? And if merely expending effort is not a cause for reward, then why is the one who abandons *taqlid* who is like the gatherer of wood at night rewarded? Is this but incoherence?

Whoever knows the conditions for being qualified to issue fatwas in the religion of Allah from the statements of Ahmad ibn Hanbal, al-Shafi'i and ibn al-Mubarak, will never be in doubt that it is not permissible for those abandoners of *taqlid* without this qualification to issue fatwas according to their opinion and according to what they understand from the Book and Sunnah due to their knowledge being like no knowledge. So, how distant is sight and how far is reward for the error [of an ignorant "*mujtahid*"]? This is from the misfortune of the *ijtihad* of a non-*mujtahid*.

He also said:

> The *muqallid* will only be closer to being right when he is aware that the truth lies with the one he does *taqlid* of and not others, and thereupon he will not be his *muqallid*, rather he will be adhering to proof. As for when he is completely ignorant of this, how is it possible for you [to claim] that he is closer to being right than the one who expends his effort and devotes his capacity to seeking the truth?[149]

This is baseless because the reason for the *muqallid* being closer to being right is that he is led by the guidance of his *mujtahid* Imam, so his being right is through his Imam being right and his being wrong is through his Imam being wrong, as opposed to the abandoner of *taqlid* because he is led by his own guidance and his being right is through his own rightness and his being wrong is through his own wrongness. A *mujtahid*'s error is more unlikely than the error of a non-*mujtahid* and his being right is more likely than his being right, so the *muqallid* is more likely correct than the abandoner of *taqlid*, which is plainly obvious. Hence, what this speaker said without understanding the intent of the one adducing evidence is dispelled.

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[148] Ibid. 4:28-9
[149] Ibid. 4:29

He also said:

> The closest to being right when the 'ulama disagree is he who follows the command of Allah and thus refers what they differ on to the Qur'an and Sunnah. As for the one who refers what they differ on to the opinion of his authority apart from others, how will he be closer to the truth?[150]

This is baseless sophistry because the disputers are the ones commanded to refer to Allah and the Messenger, so when the 'ulama differ it is obligatory on them to refer to Allah and the Messenger. As for when the ignorant differ like the *muqallid* and the non-*muqallid*, their referral to Allah and the Messenger is not but through referral to a scholar of the Book and Sunnah not the Book and Sunnah themselves because they are not well-versed in them. Otherwise, it would entail that the ignorant can arbitrate between the 'ulama, the invalidity of which is more apparent than being hidden. Hence, it is clear that which he said is sophistry and stems from a lack of reflection on the Qur'an.

He also said:

> The example that you illustrated is from the greatest of proofs against you, since the one who wishes to purchase an item or traverse a path when two or more [experts] differ about it and each of them tells him the opposite of what the other tells him, he does not go ahead and imitate one of them, rather he remains doubtful while seeking the truth from their opinions. Were he to go ahead and accept the opinion of one of them, despite the other being equal to him in knowledge, good-will and honesty or being superior to him therein, he would be considered a blameworthy risk-taker, and he would not be commended even if he was right. Indeed Allah has placed in the dispositions of sane individuals in such [circumstances] that one of them stops and seeks to give preference to the opinion differed over from external [evidence] until the truth becomes clear to him. He did not place in their dispositions rushing to accept the opinion of one [individual] and discarding the opinion of those besides him.[151]

This is baseless speech because the purpose of the illustration was to show that nothing is obligatory on the ignorant person but *taqlid* of an 'alim, and this was achieved. [What] remains is that if two or more differ over an item or path, what should he do? This is a different inquiry that does not pertain to the purpose [of the illustration]. It is not necessary in a comparison that the thing being compared to is like the thing compared in every aspect such that what he produced against us may be brought [as an objection] without understanding the intent [of the illustration]. So we say:

Once the necessity of *taqlid* is understood from the example, we say: When two *mujtahid*s differ, it is not possible for the ignorant person but to do *taqlid* of either of them because he does not have the right to judge between them and declare one right and the other wrong like one who wishes to reach a city which has two routes so one map leads to one route and another to another, he has the choice of either of them.

If you say: "Based on this, it is necessary that every *mujtahid* is right," we say: "It is not as you say, since it is not necessary in a comparison that the thing compared to is like the thing compared in every aspect such that it necessitates every *mujtahid* is right. Rather the purpose [of the analogy] is that the *mujtahid* is guided and is a guide to Allah even if he errs in his *ijtihad*, so the one who traverses the path of error also reaches Allah (Exalted is He) just like the one who traverses on the path of rightness. Hence, it does not entail that both sides are correct, so understand."

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[150] Ibid.
[151] Ibid.

As for what he said that the obligation on him is to "stop and seek to give preference to the opinion differed over from external [evidence]," it is incorrect: firstly, because this is when the two opinions revolve around benefit and harm, and what we are discussing is not like this because both opinions are beneficial in what we are discussing and neither are harmful; and secondly, because what he said, it is [possible] when the one traversing [the path] or the purchaser is qualified to give preference to the evidence and there is a means to giving preference, and what we are discussing is not so because the *muqallid* is not from those qualified to give preference, and he has no means to it, so he has no [option] but to choose either of them, whichever of them he wishes. So understand this.

This was an examination of the answers with which he replied to the evidences adduced by the *muqallid*s. You are aware that everything he replied with is corrupt, and the evidences adduced by the *muqallid*s are perfect.

Refutation of Ibn al-Qayyim's Arguments against the *Muqallid*s

It remains [for us to reply] to what he argued against the *muqallid*s, so we say:

The *Muqallid*'s Capacity to Affirm *Taqlid* by Producing Evidence

He firstly argued against the *muqallid*s that you are *muqallid*s, and adducing evidence (*istidlal*) is from the activity of the *mujtahid*, so how is it permissible for you to adduce evidence for the permissibility or obligation of *taqlid*?[152]

The reply to this is that the evidence we adduce is from the perspective of slackening the reins [of disagreement] and conforming to the opposition. The upshot is that if we are not capable of adducing evidence, there is no discussion [to be had], and if we are capable of adducing evidence, then the evidence points to the obligation of *taqlid*. Hence, our claim is established on both assumptions and your argument is baseless on both of them. Hence, the argument is rejected.

We can object to you and say: "If we are not capable of adducing evidence, why do you deem *ijtihad* obligatory upon us? And if we are capable of it, why do you denounce us for adducing evidence? Hence, your denunciation of us nullifies your school."

Moreover, there is a distinction between adducing proof for the *madhhab* and adducing proof against the *madhhab*. The *muqallid* is capable of the former and not capable of the latter because adducing proof for the *madhhab* is to agree with the Imam and adducing proof against the *maddhab* is to oppose him, and the *muqallid* is capable of agreeing and not capable of opposing, because in opposition there is a declaration that the *mujtahid* is wrong, and the *muqallid* may not declare [a *mujtahid*] wrong.

If you say: "In the evidence he adduces for the *madhhab* he declares those from the *mujtahid*s who disagreed with him wrong," we say: "Never! Because the reason for adducing evidence is to excuse the Imam and repel attacks against him, not to declare those who disagreed with him wrong, and there is a big difference between them as is not hidden." Furthermore, adducing evidence itself is not negated by *taqlid*, rather what it negates is the evidence he adduces becoming a proof requiring action. Adducing evidence itself does not entail it is a proof because if the *madhhab* of the opponent is stronger according to him from the perspective of evidence, it would not be necessary for him to leave the *madhhab* due to the evidence he adduces not being a proof. If the evidence he adduces was a proof, it would be necessary for him to leave the *madhhab*, so understand this.

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[152] Ibid. 3:483

He also produced against them [the question] that, did you turn to *taqlid* because of evidence or in spite of evidence? On [the assumption of] the first, you left *taqlid* and you chose the *madhhab* of the adherents of proof, and on the second, how is it permissible for you to substantiate proof for the obligation of *taqlid*?[153]

The reply to this is what has passed, that adducing evidence itself does not negate *taqlid*, and the matter of *taqlid* is natural, so is not in need of adducing evidence [in its favour].

He also argued against them that:

> Every group from the groups, and every community from the communities, claims that it is on the truth besides the group of *taqlid*, since they do not claim this. Had they claimed this, they would be defeated because they bear witness on themselves that they do not believe in those issues due to evidence leading them to them and proof guiding them to them, and their means is purely *taqlid*. And the *muqallid* does not know truth from falsehood.[154]

This is a depraved statement because although the *muqallid* does not know truth from falsehood by himself, his Imam knows this and he believes this knowledge is [possessed] by his Imam, so how does he not claim he is on the truth? Rather, he does claim this and his claim is more accurate than the claim of the ignorant "*mujtahid*" that he is on the truth because the basis of the claim of the *muqallid* is the knowledge of the Imam and his comprehension while the basis of the claim of this ignorant ["*mujtahid*"] is his own comprehension and knowledge. Thus, the difference between the two claims is the difference between the two knowledges and the two comprehensions.

He also argued against them that they opposed their Imams because they prohibited them from *taqlid*[155], and the reply to this is that he erred [in quoting] from the Imams, and if that were established from them, then they only prevented the people of knowledge and *ijtihad* from doing *taqlid* of them and they did not prevent the laypeople from it at all, and if that were so, they would never have embarked on [the task of] issuing fatwa.

He also argued against them that they have stated in their books that *taqlid* is invalid and prohibited[156], and the reply to this is that he did not state the name of a book that we may refer to, and it is apparent that it is a lie and error, and if it were present in a book then not everything that is in books is acceptable, and if conceded, the intent is prohibition of *taqlid* for one who is capable of *ijtihad*, as has preceded.

He argued against them that *taqlid* of a single individual in everything that he opines was not present in the best of generations and it only occurred in the fourth century[157], and the reply to this is that once the essence of *taqlid* is established in the best of generations, the absence of individual *taqlid* (*al-taqlid al-shaksi*) specifically is of no harm due to the absence of need, or the difficulty in that time.

He argued against them that *muqallid*s legitimise private parts, blood and properties and prohibit them, while not knowing whether it is correct or incorrect, so they are in great danger[158], and the reply to this is that they neither permit, nor prohibit, these [things] from their personal opinions, rather they do this

[153] Ibid. 3:483-4
[154] Ibid. 3:484
[155] Ibid.
[156] Ibid.
[157] Ibid. 3:484-5
[158] Ibid. 3:485

based on the opinion of an ‘alim, so they are in less danger than the abandoners of *taqlid* who do these [things] using their personal opinions while being unqualified for this.

He argued against them that, “What is it that specifies your imam to be more worthy of *taqlid* than other than him?” The reply to this is that we believe that he is qualified for this so we did *taqlid* of him because in doing *taqlid* of him there is sufficiency, just as one who chooses a doctor amongst various doctors for treatment, he will not asked, “Why did you choose this [doctor] and not that [doctor]?” and there are many examples of this as is not hidden. It is not that we know that he is the most learned of the people of his time or his proofs are stronger than the proofs of others, such that what he argued [against *taqlid*] may be brought [as an objection] against it.

He also argued against them, saying that:

> Are you, in doing *taqlid* of your Imam, legitimising private parts, blood and properties and transferring them from one who owns them to another, in agreement with the command of Allah and His Messneger or the Ijma‘ of his ummah or the opinion of one of the Sahabah? If he says, “Yes,” he said that which Allah and His Messenger and all the ‘ulama know to be false, and if he says, “No,” he has sufficed us the burden [of disproving *taqlid*].[159]

The reply to this is that we say: “Yes,” and as for what you said, that Allah and His Messenger and all the ‘ulama know it to be false, it is false and a slander against Allah and His Messenger and all the ‘ulama because the fatwa of ‘ulama was a proof from the time of Allah’s Messenger (Allah bless him and grant him peace) to this time of ours, and the people would act upon it and permit and prohibit [based on it] and know that it is the rule of Allah and His Messenger, so how can it be said that Allah and His Messenger and all the ‘ulama know it to be false?

He also argued against them that:

> Each of them recognises about himself that he is a *muqallid* of his authoirity, and does not part from his opinion and leave, in favour of it, all that opposes it from the Book, Sunnah or the opinion of a Sahabi or the opinion of one more learned than his authority or his equal, and this is from the strangest of wonders.[160]

The reply to this is that its reason is inability to do *ijtihad* and to take the rules from the Book and Sunnah and incapacity to give preference to opinions, not that he prefers the opinion of his authority over the Book of Allah and the Sunnah of His Messenger and others, so there is nothing strange.

He also argued against them, saying that:

> Do you have knowledge that the one you do *taqlid* of is more likely to be correct than all the others whose opinion you reject from the early and late [scholars], or do you not have knowledge? If he says, “We have knowledge,” he says what he knows to be false and if he says, “I do not have knowledge,” which is the truth, it will be said to him, “What will be your excuse tomorrow beore Allah when the one you do *taqlid* of will not benefit you with a single good deed and will not bear from you a single sin when you ruled and issued fatwa amongst His creation with what you had no knowledge of whether it is correct or incorrect?”[161]

[159] Ibid. 3:486
[160] Ibid. 3:484
[161] Ibid. 3:487

The answer to this is that although he does not have [this] knowledge, the one he follows and takes his opinion and whose *madhhab* he issues fatwa according to does have [this] knowledge. The excuse before Allah will be to say: "My Lord, indeed I was not a *mujtahid* who knows the law from the Book and Sunnah, preferring some opinions over others, so I sought fatwa from an 'alim from the 'ulama and I ruled by what he issued as fatwa, and this is what was in my capacity, so I did not fall short of what was in my capacity." This is the excuse.

However, what will the ignorant one who exercises *ijtihad* using his [personal] opinion, rejects some hadiths using the opinion of Ibn Hajar and al-Shawkani and their likes or their superiors, and accepts some of them using their opinion and interprets them according to what he wishes using his own opinion or the opinion of one he trusts, say when the Lord asks him: "How did you judge amidst my creation? How can you say that this hadith is authentic and this is weak and its meaning is this and its interpretation is so?" If he says, "I said this using the opinion of Ibn Hajar, al-Shawkani and others," it will be said to him, "Why did you do *taqlid* of Ibn Hajar and al-Shawkani while you prohibit *taqlid* of Abu Hanifah, al-Shafi'i, Malik and Ahmad?" If he says, "I did so using my opinion and my *ijtihad*," it will be said to him, "Who are you and what is your opinion? Since, according to you, the opinion of Abu Hanifah, al-Shafi'i, Malik and Ahmad, rather the opinion of Abu Bakr and 'Umar and their likes, is not a proof, how did your opinion become a proof by which you judge between My servants and you permit and prohibit and you declare My chosen servants disbelievers, heretics and sinners?" So consider what this ignorant person will say to his Lord, and what will be his excuse before Him?

He also argued against them, saying:

> Do you claim infallibility for your authority or do you allow error upon him? There is no means to the first, rather you agree on its invalidity, so the second is specified. Since you allow error upon him, how can you permit, prohibit, obligate, spill blood, legitimise private parts, transfer properties and strike men, according to the opinion of one you agree is possibly wrong?[162]

The reply to this is that this precisely disproves your [position] because we say, "Do you claim infallibility for yourself, your hadith-scholars and for the narrators of hadith or not?" If you say, "Yes," this is false and you agree on its invalidty and if you say, "No," that which you argued against the *muqallid* will be brought against you, rather you are worthier of it than him because the authority of the *muqallid* is better and superior to you, your hadith-scholars, the narrators of hadith and those you rely on, so what is your reply to this?

He also argued against them, saying:

> Do you say when you issue fatwa and you decree according to the opinion of the one you do *taqlid* of, that "this is the religion of Allah which He sent to His Messenger and He revealed in His Book and He legislated for His servants, and there is no religion of His besides this," or do you say that "the relgion of Allah which He instituted for His servants is contrary to it," or do you say, "I don't know"? You have no option besides one statement from these statements. There is absolutely no means to the first since Allah's religion is the one besides which there is no religion, and it is not permitted to oppose it and the lowest of the grades of its opponent is that he is from the sinners. You do not claim the second, so you have no recourse but to the third. Alas, by Allah, how strange! How do you legitimise private parts, blood, properties and

[162] Ibid.

> rights and you permit and prohibit according to a matter, the best and most favourable of its states is, "I don't know"?[163]

The reply to this is that when you issue fatwa and decree, this very question is directed at you, so what is your reply to it? As for our reply, it is that we say that we know that ruling by it is the religion of Allah and His decree, according to which an 'alim from the 'ulama issued to us a fatwa. We do not say that there is no religion besides it because the one who issued to us a fatwa on it is a *mujtahid* and *mujtahid*s err and are correct, so it is not permissible for us to say there is no religion besides it. Hence, the question is rejected.

He also argued against them, saying:

> Are you certain that you will stand before Allah tomorrow and you will be asked about what you decreed concerning the blood, private parts, persons and properties of His servants and about on what you issued fatwa in His religion, permitting, prohibiting and obligating?...When He asks you, "From where did you say this," what will you reply? If you say: "Our reply is that we permitted and prohibited and we decreed according to what is in *Kitab al-Asl* by Muhammad ibn al-Hasan according to what he narrated from Abu Hanifah and Abu Yusuf of opinion and preference," and "according to what is in *al-Mudawwanah* from the narration of Sahnun from Ibn al-Qasim of opinion and preference," and "according to what is in *al-Umm* from the narration of al-Rabi' of opinion and preference," and according to what is [found] in answers besides these of opinion and preference...it will be said to you, "Did you do this from My command or the command of My Messenger?" What then will be your reply?
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> ...
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> If you say: "We and you are equal when it comes to this question," it will be said: "Yes, but we part in the reply, as we say: 'O Our Lord! Verily you know that we did not consider any of the people a standard over Your speech and the speech of Your Messenger, referring what we differed on to him, seeking judgement from his opinion and putting his opinions ahead of Your speech and the speech of Your Messenger and the speech of the companions of Your Messenger. The creation is more insignificant for us than to put their speech and opinions ahead of Your revelation. Rather, we issued fatwa according to what we found in Your Book and according to what reached us from the Sunnah of Your Messenger and according to what the companions of Your Prophet issued fatwa on. If we deviated from this, it was an error from us and not purposeful. We did not take from besides you and besides Your Messenger and besides the believers a confidant (*walijah*). We did not divide our religion and become sects and we did not cut off our matter between us into groups. We made our imams an example for us and a means between us and Your Messenger in their transmission of what they conveyed to us from Your Messenger. Hence, we followed them in this and we imitated them therein since You commanded us and Your Messenger commanded us to listen to them and accept what they conveyed from You and from Your Messenger. Thus, hearing and obedience were [only] for You and Your Messenger. We did not take them as lords seeking judgement from their opinions and arguing using their [opinions], and making friends and enemies based on them. Rather, we subjected their opinions to Your Book and the Sunnah of Your Messenger, so whatever agreed with them we accepted and whatever opposed them we rejected and abandoned even if they were more learned than us of You and Your Messenger, since whoever's opinion concurs with the opinion of Your Messenger, he is the most learned of them

[163] Ibid.

in that issue.' This is our reply and we implore you by Allah: Are you like this, such that this reply is possible for you before the One with Whom the word does not change, nor does falsehood reach to Him?"[164]

The reply to this is that this answer with which you replied does not spare you according to your principles because when you say, "O Our Lord! Verily you know that we did not consider any of the people a standard over Your speech and the speech of Your Messenger," the Lord will say, "You lied because you made your imams a standard over the speech of My Messenger, authenticating what they authenticated and weakening what they weakened, rejecting what they rejected and accepting what they accepted using their opinions and suspicions. Did I command you to [do] this or did My Messenger command you to [do] this?" If you say, "Yes" it will be said to you, "Show Me the text in which [it says] that so-and-so is reliable so accept everything that he narrates and so-and-so is weak so don't accept what he narrates; and accept the *musnad* narration and don't accept the *mursal* narration and prefer the hadith of al-Bukhari over all hadiths and authenticate what so-and-so authenticated and weaken what so-and-so weakened." When this is said to you, ponder whether you will be able to show a text on this? If you say, "No", it will be said to you, "How can you claim that you did not 'consider any of the people a standard over Your speech and the speech of Your Messenger'? Even if this is not [included] in making them a standard over My speech and the speech of My Messenger, why do you claim against My *muqallid* servants that they made their Imams a standard over My speech and the speech of My Messenger, although they do with their Imams exactly what you do with your imams?

"You also said that you do not refer what you differ on to other than Allah and the Messenger and you do not seek judgement from his opinion. This too is a lie, since you refer to al-Bukhari and Muslim and others and you seek judgement from them. If you say that "we do not seek judgement from them except to distinguish revelation from other than it," it will be said to you, "The *muqallid*s similarly do not seek judgement from their imams, except so revelation may be distinguished for them from other than it, so why do you claim that they seek judgement from other than Allah and His Messenger? What you said, that creation is more insignificant for us than to put their speech and opinions ahead of Our revelation, the *muqallid*s are the same, so you and they are equal in this, rather they are better than you because they are further from following desires than you, so why do you claim about them theat they prefer the opinions of creation over revelation?

"What you said that 'we issued fatwa according to what we found in Your Book and according to what reached us from the Sunnah of Your Messenger and according to what the companions of Your Prophet issued fatwa upon,' the Imams of the *muqallid*s are the same as you in this, rather they are better than you because they are more learned and more fearful of Allah than you, so why do you denounce their *muqallid*s for following them? What you said that 'we did not divide our religion and become sects,' this is also a lie because every division is found amongst the abandoners of *taqlid* and this is most apparent.

"What you said, that 'we made our imams an example for us and a means,' the *muqallid*s are similar, so why do you denounce them and exonerate yourselves? What you said, that 'we subjected their opinions to Your Book and the Sunnah of Your Messenger, so whatever agreed with them we accepted and whatever opposed them we rejected and abandoned,' if you are *mujtahid*s capable of preferring opinions and criticising them then what you do is excellent. [But] why do you enforce this practice on one unable to do *ijtihad* and criticse? You misled My servants by opening the door to following desires and overturning realities. If you were non-*mujtahid*s, how can it be permissible for you to do *ijtihad* and leave *taqlid*?"

[164] Ibid. 3:489-90

These questions will come to you from Allah (Exalted is He), and it is not possible for you to escape them with sound answers unless Allah pardons you due to your good intentions and excuses you due to your ignorance. As for the *muqallid*s, they will answer that "we were not *mujtahid*s capable of deriving rulings, and were we capable, we did not rely on our *ijtihad* and we asked one who we know that he is more learned, more conscious and more fearful than us due to casting doubt on our selves and our opinions, and this was not but for Your pleasure, not for personal gain." It will be hoped from Allah that He accepts from them this sound answer. Hence, it is apparent that the *muqallid*s are safer and further from being taken to task than the abandonders of *taqlid*.

He also argued against them that you confess inability to comprehend the truth via its proofs from the Book and Sunnah, so how do you know that your authority is closer to the truth than others?[165] The reply to this is that our *taqlid* is not based on our knowledge that our authority is closer to the truth than others. Rather, our *taqlid* is based only on our knowledge that he is a *mujtahid* 'alim just as our referral to a doctor is not based on our knowledge that he is more learned and more skilled in medicine than others, rather only his being a doctor knowledgeable of treatment. Hence the problem is dispelled.

He also argued against them, saying:

> We say to the group of *muqallid*s: "Do you allow *taqlid* of every 'alim from the predecessors (*salaf*) and the successors (*khalaf*), or *taqlid* of some of them and not others? If you allow *taqlid* of all, your permission of *taqlid* of the one whose *madhhab* you belong to is equal to your permission of the *taqlid* of others. So why do the opinions of this 'alim become your *madhhab*, according to which you issue fatwa and give decrees, while you allow in *taqlid* of this [Imam] that which you allow in the *taqlid* of others? Why has this [Imam] become the founder of your *madhhab* and not this? Why do you consider it permissible to reject the opinions of this [Imam] and accept the opinions of this [Imam], while both are 'alims that can be followed? If his opinions are from the religion, how is it permissible for you to repel the religion? And if his opinions are not from the religion, why do you allow his *taqlid*?" This you have no answer to.[166]

The reply to this is that we allow *taqlid* of every *mujtahid* 'alim, but it is not possible for everyone to follow every 'alim, and it is only possible that some do *taqlid* of one of them and others another, and this is the reality. The question, "Why did you choose this *taqlid* and not that, while everyone is allowed to be followed according to you?" is an ignorant question because when a single goal has two equal paths, the traveller has the choice of which of them he chooses to travel on, and he will not be asked why you chose this and not that. Similarly, when two doctors are present in one's city and he chooses one of them for treatment, he will not be asked why you chose this [doctor] and not that [doctor].

His statement, "If his opinions are from the religion, how is it permissible for you to repel the religion, and if his opinions are not from the religion, why do you allow his *taqlid*?" is from the most obscene and ignorant [statements] because we say that the opinion of every one [of the *mujtahid*s] is from the religion, but it is not possible for us to choose both their opinions together, so we have the choice of whichever of them we wish while knowing that the other opinion is also from the religion. We have already clarified this with the example of the two routes and the two doctors. Hence, the problem is dispelled.

Furthermore, the *muqallid* only chooses the *madhhab* of his Imam which is widespread in his lands due to the feasibility of his [gaining] knowledge of it due to the large number of those who follow this

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[165] Ibid. 3:491
[166] Ibid. 4:29-30

madhhab from the 'ulama of those lands. It is difficult for him to do *taqlid* of an imam whose *madhhab* is not widespread in his lands and its 'ulama are not persent therein. This is the reality, as is plainly visible. This was the tradition of the Muslims from early times. Hence, you see the 'ulama of Madinah taking the opinions of Ibn 'Umar and the *madhhab* of Zayd ibn Thabit, and the 'ulama of Makkah taking the fatwas of Ibn 'Abbas and Ibn al-Zubayr, and the 'ulama of Iraq were *muqallid*s of the fatwas of Ibn Mas'ud and 'Ali (Allah be pleased with them). This was not but due to the abundance of those who knew the opinions of these Sahabah in those lands. So understand.

He also argued against them that:

> When there are two narrations on an issue from the one you do *taqlid* of, you allow acting on both of them and you say, "The *mujtahid* has two opinions, so it is permissible for us to adopt this and this," and both opinions are your *madhhab*. So why do you not consider the opinion of his equal from the *mujtahid*s at the level of his other opinion while you consider both opinions your *madhhab*? Perhaps the opinion of his equal and one who is more learned than him is superior to his other opinion and closer to the Book and Sunnah.[167]

The reply to this is that in choosing the opinion of [one] besides the Imam is abandonment of the Imam's *taqlid*, as opposed to choosing one of his opinions. This is the difference. Hence, the argument does not arise, since leaving *taqlid* is the job of the *mujtahid* not the *muqallid*.

He also argued against them that:

> When one of your companions from those you imitate offers an opinion in opposition to the opinion of the authority or he extracts it from his opinion, you give it value, and you issue fatwa according to it and you necessitate its consequence, and when the Imam who is equal to your authority or superior to him offers an opinion opposing him, you do not turn to it and do not regard it as anything.[168]

The reply to this is that that which one of our companions said in opposition to the opinion of the Imam is possibly another opinion of his. Hence, choosing the opinion of one of the companions is choosing the opinion of the Imam as opposed to choosing the opinion of another Imam. This is the difference, and this is obvious when the opinion of one of the companions is extracted from the opinion of the Imam. Hence, the doubt is dispelled.

The Issue of the Discontinuity of *Ijtihad*

He argued against them also that you say *ijtihad* has ended for [many] eras. This necessitates that the earth is devoid of a standing proof of Allah, although he (Allah bless him and grant him peace) said: "There will remain a group of this ummah, manifestly on the truth,"[169] and, "Allah will send at the head of every century one who will renew for this ummah its faith."[170][171]

The reply to this is that there is no proof in what you mentioned that the renewer (*mujaddid*) and the one who stands as a proof of Allah is a *mujtahid*, so what benefit is there in it for you? Secondly, if it were agreed that he is a *mujtahid*, it is a proof against you, not us, because it entails that not everyone is a *mujtahid*, since if everyone was like this, everyone would be a proof of Allah and a renewer of the faith

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[167] Ibid. 4:30
[168] Ibid.
[169] Muslim narrated it in his *Sahih* (Muslim, op cit. p. 925)
[170] Abu Dawud narrated it in his *Sunan* (Abu Dawud, op. cit. 5:35)
[171] Ibn al-Qayyim, op. cit. 4:32

and this is at odds with the text, so it is established that some of the ummah are *mujtahid*s while others are their *muqallid*s. Hence, *taqlid* is established.

As for the issue of the discontinuity of *ijtihad*, it is based on thorough examination and observation, and is not an issue of the Shari'ah that is established from the Book and Sunnah, neither negatively, nor positively, so objecting to it is ignorance. Even if it were accepted that *ijtihad* did not cease, it still does not entail that it [should be] accepted that everyone who claims *ijtihad* is a *mujtahid*. Yes, if the conditions are found in him and its requirements are found in him, it would be conceded of him that [he is a *mujtahid*], and otherwise, [it would] not. Even after accepting [this], there is no obligation on anyone to do *taqlid* of him. Yes, he has the right to do *ijtihad* for himself and act according to what his *ijtihad* leads him to, although it is not permissible for him to compel another to do *taqlid* of him, especially when he rejects *taqlid* and opposes it strongly, and his invitation of people to his *maddhab* conflicts with his *madhhab* because his *madhhab* is the prohibition of *taqlid*, so how can his invitation of people to do *taqlid* of him be sound?

The discussion, by Allah's help, has been completed on most of the issues related to *taqlid*. It is clear to you that the rejecters of *taqlid* have not in their possession but deceptions and fallacies, doubts and insinuations, which deceive the ignorant and the foolish. It is [also] clear from this that those who say *ijtihad* has ended based on thorough examination and observation are correct, since when we investigate the conditions of the claimants to *ijtihad* we find them unqualified for it. Allah pardon us and them.

A Completion of Discussions on *Taqlid* and *Ijtihad*

Do Muftis issue Fatwa according to Opinions the Imams have Retracted from?

Ibn al-Qayyim said in the "fifty-second benefit" (*al-fa'idat al-thaniyah wa al-khamsin*) of his book *I'lam al-Muwaqqi'in*:

> The followers of the Imams often issue fatwa according to their early opinions which they retracted from. This is found in all groups. Thus, the Hanafis issue fatwa on the bindingness of vows which come in the form of an oath like Hajj, fasting and charity and they themselves relate from Abu Hanifah that he retracted three days before his death to [the permissibility of] expiation [of the oath]...It is known that the opinion from which he clearly stated [his] retraction does not remain his *madhhab*, so when the mufti issues fatwa according to it despite his statement in opposition to it due to its preference according to him, that does not take him out of following his *madhhab*. So what prevents him from issuing fatwa according to the opinion of another of the four Imams, and other than them, when it is preferred according to him?
>
> If it is said, "The first was once his opinion as distinguished from what he never said," it will be said, "This is an ineffective difference, since what his opinion was and he clarified his retraction from, it is at the level of what he had not opined." All this is from that which demonstrates that the people of knowledge did not restrict themselves to pure *taqlid* due to which they renounced the opinion of one who opposed the one they did *taqlid* of. This is a blameworthy and dangerous method, newly-invented in Islam, a cause for many types of errors, and contrary to what is correct.[172]

This is questionable because they do not issue fatwa according to it after retraction from it is established. The issue of the oath which he mentioned with regards to our Hanafi companions, the fatwa according to us therein is upon the opinion retracted to, not on the opinion retracted from as he claimed. It says

[172] Ibid. 6:168-9

in *al-Shamiyyah*: "The distinction mentioned here[173] was narrated from Abu Hanifah and that he retracted to it seven days before his death, and [it is mentioned] in *al-Hidayah*: 'It is the opinion of Muhammad, and it is sound,' and the authors of the primary texts like *al-Mukhtar*, *al-Majma'*, *Mukhtasar al-Niqayah*, *al-Multaqa* and others trod upon it, and it is the *madhhab* of al-Shafi'i. And it is mentioned in *Fath al-Qadir* that it is narrated in the *Nawadir* and it is the preference of the verifiers."[174]

If conceded, then passing fatwa on it is not because it was retracted from, but because it is the apparent transmission (*zahir al-riwayah*) while the transmission of the retraction is a rare transmission (*riwayat al-nawadir*). Hence, the confusion on which he based the shortcoming is destroyed.

His statement, "This is a blameworthy and dangerous method, newly-invented in Islam, a cause for many types of errors, and contrary to what is correct," [the fallacy] in this is that these are all empty claims, not substantiated by any proof, so they are rejected.

Can a Mufti in a *Madhhab* issue Fatwa against the Opinion of his Imam?

Ibn al-Qayyim said in the "fifty-fourth benefit" (*al-fa'idat al-rabi'ah wa l-khamsin*) of his book *I'lam al-Muwaqqi'in*:

> It is prohibited for the mufti to issue fatwa against the words of a clear text [from the Qur'an and hadith] even if it agrees with his *madhhab*.[175]

This is undoubtedly a true statement, but that which is intended by it is false, because he intended by it falsification of the *mujtahid*s' *ijtihad* and prohibition of issuing their fatwas as is apparent from the examples which he used to illustrate this ruling. Hence, his likeness is not but the likeness of the Kharijites who said that "rule belongs only to Allah" (Qur'an 12:40) by which they intended to falsify arbitration.

The verification on this statement is that when it is established to the mufti, that is, a *mujtahid*, that this is a text from the lawgiver and its interpretation according to him is fixed, it is prohibited for him to deviate from it to another [opinion] even if it conflicts with another's opinion and belief in conflict with the words of the clear text. It is possible the disagreement is for [a number of] reasons:

First, one believes it to be established and the other not established.

Second, one believes it to be inferior and the other superior.

And third, they don't disagree on establishment and superiority but they differ on the interpretation, so one of them holds it according to one interpretation and the other to another.

All of this is permissible, and the ummah have agreed on it. Thus, attacking such disagreement is an attack on the entire ummah, rather an attack on one's self as well, because he himself is also not safe from perpetrating the like of this prohibition in many issues. An illustration of this is that he says as an example of issuing fatwa in opposition to the words of the text:

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[173] This refers to the distinction between a conditional vow (*al-nadhr al-mu'allaq*) that is conditional on an expected occurrence like the arrival of a traveller and one that is conditional on an unexpected occurrence like committing adultery. In the case of the former, it is necessary to fulfil the vow and in the case of the latter, since it is akin to an oath, the person is given a choice between expiation (*kaffarah*) of the oath or fulfilling the vow (Muhammad Amin ibn 'Abidin al-Shami, *Radd al-Muhtar*, ed. 'Adil Ahmad 'Abd al-Mawjud and 'Ali Muhammad Mu'awwad, 1423 H/2003 CE, Riyadh: Dar 'Alam al-Kutub, 5:521-2)
[174] Ibid.
[175] Ibn al-Qayyim, op. cit. 6:169

> An example is that [a mufti] is asked, "Is it permissible to judge using a witness and an oath?" and he says, "It is not permissible," while the bringer of the Shari'ah judged using a witness and [the plaintiff's] oath.[176][177]

We say: If the mufti opposed the text of judging using a witness and an oath by not permitting [it], you have opposed, in your fatwa of permissibility, the text, "Proof is on the claimant and oath on the one who denies,"[178] and you contradicted the text of the Qur'an, "And call to witness, from among your men, two witnesses. And if there are not two men, then a man and two women" (2:282), and He did not say "a witness and an oath." So how are you safe from perpetrating this [same] prohibition in this fatwa of yours?

If you say: "The text on judging using a witness and an oath specifies the text 'proof is on the claimant and oath on the one who denies,'" we say: "This is interpretation, and you reject and condemn interpretation, and you believe that all that occurred of corrupting influences in Islam stemmed only from interpretation." If you say: "We condemn only corrupt interpretation, not sound [interpretation]," we say: "How do you know that your interpretation is sound and the interpretation of your opponent is corrupt? For have you found in a text that Allah's Messenger (Allah bless him and grant him peace) said that my judgement using an oath and a witness specifies my statement 'proof is on the claimant and oath on the one who denies' so everyone who interprets my speech using another interpretation, his interpretation is false? Since this was not stated by the lawgiver, then just as it is permissible for you to interpret the text 'proof is on the claimant and oath on the one who denies' by specying [it] based on the hadith of judging using an oath and a witness, your opponent may interpret the text of judging using an oath and a witness by assuming it to be a judgement in the form of reconciliation not a judgement in the form of a juridical decree (*hukm*). We have mentioned that which supports this from hadiths, in *Bab al-Qada'* from *I'la al-Sunan*[179], so that ought to be referred to. There are many examples of judging in the form of reconciliation in the judgements of Allah's Messenger, like the judgement between Ka'b and Ibn Abi Hadrad[180] and the judgement between al-Zubayr and the Ansari[181], so how do you know that the judgement which used an oath and a witness was not in this form, but it was a specification of the text 'proof is on the claimant and oath on the one who denies'? How can you say [with certainty] that the fatwa of impermissibility is in opposition to the text while you yourself are closer to opposition? Since when you side with specification, you leave the text in some places while your opponent has not left any text in any context at all, rather he practices both of them in its place without specification."

Hence, it is known thereby that this speech of his is true, but falsehood was intended by it. Such words have deceived the fools of our time until they removed the noose of *taqlid* from their necks and they

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[176] Muslim narrated it in his *Sahih* (Muslim, op. cit. p. 818)
[177] Ibn al-Qayyim, op. cit. 6:172
[178] Imam al-Nawawi mentioned it in his collection of forty hadiths and stated, "A *hasan* hadith, narrated by al-Bayhaqi and others as such and part of it is [narrated] in the two *Sahih*s." (Ezzedin Ibrahim and Denys Johnson-Davies, *Al-Nawawi's Forty Hadith*, 1979, Third Edition, Lahore: Kazi Publications, p. 109)
[179] Zafar 'Uthmani, op. cit. 15:350-404
[180] This is in reference to a hadith recorded in the two *Sahih*s of al-Bukhari and Muslim as follows: Ka'b narrated that he demanded the repayment of a debt that he had over Ibn Abi Hadrad in the mosque and their voices rose until Allah's Messenger (Allah bless him and grant him peace) heard while he was in his house, so he came to them until he opened the curtain of his room, and said, "O Ka'b!" He said, "I am here, O Messenger of Allah!" He said, "Reduce your debt" and he gestured "one half" to him. He said, "I have done [so], O Messenger of Allah!" He said [to Ibn Abi Hadrad], "Get up and repay [the debt]." (Al-Bukhari, op. cit. p. 70, Muslim, op. cit. 732)
[181] This is in reference to a hadith recorded in the two *Sahih*s of al-Bukhari and Muslim as follows: 'Abd Allah ibn al-Zubayr narrated that a man from the Ansar disputed al-Zubayr in the presence of Allah's Messenger (Allah bless him and grant him peace) over the watering places of Harrah from which they watered the date trees. The Ansari said, "Let the water flow," and he refused, so they disputed before Allah's Messenger (Allah bless him and grant him peace), so Allah's Messenger (Allah bless him and grant him peace) said, "Water [your date trees] and then release the water to your neighbour." (Al-Bukhari, op. cit. p. 312, Muslim, op. cit. p. 1106)

scald the Imams of guidance with sharp tongues and they enter into every valley with ignorance and obstinacy. So beware and beware [again] from being deceived by such words, since their outward is true and their inward is false.

Ibn al-Qayyim said at the end of the aforementioned "benefit":

> The pure Salaf would strongly disapprove and be angry at the one who opposed the hadith of Allah's Messenger (Allah bless him and grant him peace) in favour of opinion, analogy, or preference or the opinion of any of the people whoever he may be, and they stayed away from the one who did this, and they disapproved of one who drew examples of it, and they would not permit [anything] besides submission to it, loyalty and acceptance of it by hearing and obeying, and no hesitation wavered in their hearts in accepting it until practice or analogy supported it or it agreed with the statement of so-and-so and so-and-so, rather they would act according to His statement, "It is not fitting for a Believer, man or woman, when a matter has been decided by Allah and His Messenger to have any option about their decision" (33:36) and His (Exalted is He) statement, "But no, by your Lord, they will not believe until they make you judge of what is in dispute between them and find within themselves no dislike of that which you decide, and submit with full submission." (4:65) and His (Exalted is He) statement, "Follow that which is sent down unto you from your Lord, and follow no protecting friends beside Him" (7:3) etc.
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> Then we were pushed into a time when it is said to one of them, "It is established from the Prophet (Allah bless him and grant him peace) that he said such-and-such and such-and such," he says, "Who holds this opinion?" and he considers this a [reason to] reject [the hadith] at the outset of the discussion, and he considers his ignorance of one who opined it a proof for him to oppose it and abandon practicing it. If he wished well for himself, he would know that this speech is from the greatest falsehood, and that it is not permissible for him to repel the traditions of Allah's Messenger (Allah bless him and grant him peace) for the like of such ignorance.
>
> Worse than this is his excuse for his ignorance, since he believes consensus has formed on opposition to that Sunnah. This is an evil opinion of the Muslim community, since he attributes to their agreement opposition to the Sunnah of Allah's Messenger (Allah bless him and grant him peace). Worse than this is his excuse for claiming this consensus which is his ignorance and the absence of his knowledge of one who takes an opinion according to the hadith, so the matter returns to the preference of his ignorance over the Sunnah. Allah is sought for help.
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> No imam from the imams of the ummah is known to have ever said, "A hadith of Allah's Messenger (Allah bless him and grant him peace) is not to be acted upon until it is known who acted upon it, so if the one to whom a hadith reached is ignorant of one who acted upon it, it is not permissible for him to act upon it," as this speaker says.[182]

I say: This is immense sophistry and great error, since the ummah are agreed that not every hadith narrated from Allah's Messenger (Allah bless him and grant him peace) is accepted, and it is not acted upon due only to the statement of the narrator, "Allah's Messenger (Allah bless him and grant him peace) said," rather it is to be examined: Is it established from Allah's Messenger (Allah bless him and grant him peace) or not? And secondly, is it from that which is acted upon or abandoned due to it being abrogated or overruled (*marjuh*)? From the totality of proofs for the non-establishment of a hadith and it being abrogated or overruled is the ummah not practicing it because if the hadith was established and

[182] Ibn al-Qayyim, op. cit. 6:179-80

acted upon, it would not be hidden to the ummah, and if it was manifest to them, there is no sense in their avoidance of acting upon it without any reason. One who attempts to investigate these matters is not repelling the hadith from the outset, rather he is seeking its establishment and [whether] it is acted upon. Then when it is realised by him that no one takes an opinion according to it, it is proper for him to say that this hadith is not established or is abrogated or is overruled due to consensus on not practicing it, and he is excused in the claim of consensus on not practicing it when acting upon it is not established according to him from anyone, so it is necessary for one who claims that the ummah have not abandoned it, rather have acted upon it, to prove his claim by an authentic transmission, established from the one who practiced it, and his argument will not be valid by merely asserting the establishment [of such a practice] and attributing ignorance and bad opinion to him, as this speaker has done.

As for what follows of the verses, no Muslim says [anything] contrary to them, because this is when it is established that it is the statement of Allah's Messenger and is acted upon; hence, the verses are not from that which we are discussing because what we are discussing is about its very establishment from Allah's Messenger (Allah bless him and grant him peace) and its being acted upon.

As for his statement, "The pure Salaf would strongly disapprove and be angry at the one who opposed the hadith of Allah's Messenger (Allah bless him and grant him peace) in favour of opinion, analogy, or preference," it is a statement that throws the Salaf into error since Ibn 'Abbas rejected the hadith of Abu Hurayrah on *wudu'* from whatever touches fire, and for this [reason] Abu Hurayrah became angry, so if in the anger of Abu Hurayrah there is proof for him, in the rejection of Ibn 'Abbas is a proof for us. This was not a refutation of the hadith of Allah's Messenger (Allah bless him and grant him peace) after his knowledge that it is from Allah's Messenger (Allah bless him and grant him peace), rather this was a decleration that Abu Hurayrah erred in his narration because he believed that he erred in understanding the hadith. And if he has proof in Ibn 'Umar's anger towards his son when he rejected his statement, "Do not prevent the female slaves of Allah from the mosques," by his statement, "By Allah, we will prevent them,"[183] we have proof in the rejection of his son who is from the pure Salaf, and that was not a rejection from him of the hadith, rather this was a refutation of the understanding of Ibn 'Umar since he understood from it absoluteness in all situations, times and places, while his [i.e. Ibn 'Umar's son's] intention was that this ruling was specific to the time of Allah's Messenger (Allah bless him and grant him peace) due to the piety of that age, and it is not for our time due to its depravity. It is also proven by what was narrated from 'A'ishah, that "had Allah's Messenger (Allah bless him and grant him peace) seen what the women innovated after him, he would have prevented them from the mosques,"[184] and 'A'ishah rejected some of the hadiths of 'Umar and his son and some of the hadiths of Abu Hurayrah, and 'Umar rejected the hadith of Fatimah bint Qays. This was not a rejection from them of the hadiths of Allah's Messenger (Allah bless him and grant him peace), rather this was a belief that the narrator erred, and it is not known from the Salaf that they would accept the statement of everyone who said, "Allah's Messenger (Allah bless him and grant him peace) said such and such," without contemplation of it and criticism. Hence, the proof in the practice of the Salaf is for us, not for him, and it is manifest that most of what this speaker said in this "benefit" is pure sophistry and complete error.

The weak servant says: Rather, it is even contrary to the statement of Allah's Messenger (Allah bless him and grant him peace), since he commanded us to subject the solitary reports (*akhbar al-ahad*) to the Book of Allah (Great and Glorious is He) and his well-known Sunnah since he said, "Sayings of mine will spread, so whatever comes to you from my sayings, read the Book of Allah and deliberate, and whatever agrees with the Book of Allah, I said it, and whatever does not agree with the Book of Allah, I

[183] Muslim narrated it in his *Sahih* (Muslim, op. cit. p. 206)
[184] Al-Bukhari and Muslim narrated it in their *Sahih*s (Al-Bukhari, op. cit. p. 120, Muslim, op. cit. p. 207)

did not say it." Agreement includes that which agrees with a text, or agrees with a deduction, or agrees with a general or a specific [ruling]. Al-Sakhawi said in *al-Maqasid al-Hasanah*: "Our shaykh [Ibn Hajar al-'Asqalani] was asked about this hadith and he said that it has come through paths that are not free from criticism, and al-Bayhaqi gathered its paths in his book *al-Madkhal*."[185]

I say: plurality of paths implies the hadith is strong even if every one of them has some criticism. In some of its routes according to Abu Yusuf with a *mursal sahih* chain it appears as: "Make the Qur'an and Sunnah and the upright obligations a guide for you." Al-Tahawi said:

> The upshot is that the transmitted hadith, when it agrees with the Shari'ah and the Qur'an confirms it, and which is supported by other narrations due to its meaning being found in them, it is necessary to assent to it because even if the statement is not established with that wording, it is established he said its meaning with another wording. Do you not see that it is permissible for a narrator to narrate the hadith of Allah's Messenger (Allah bless him and grant him peace) in meaning which is common in solitary reports, so it is not certain it was narrated with the wording of Allah's Messenger (Allah bless him and grant him peace) except rarely, and it is permissible to express his (Allah bless him and grant him peace) speech in non-Arabic for one who does not understand it, so it is said to him, "The Prophet (Allah bless him and grant him peace) commanded you such-and-such and forbade you from such-and-such," and its speaker is truthful? If the transmitted hadith is in conflict with the Shari'ah, belied by the Qur'an and the well-known reports, it is necessary for it to be rejected and to know that he did not say it, and this is obvious. (*al-Mu'tasar min al-Mukhtasar min Mushkil al-Athar* 1:462)

So this is Allah's Messenger (Allah bless him and grant him peace) commanding us to verify that which was narrated from him of hadiths through solitary paths. If it were obligatory on us to accept everything that was narrated from him (Allah bless him and grant him peace), critical hadith-scholars who rule some hadiths weak and some forged are the first to reject hadith and its greatest opponents, and no one who has the grounding of intellect will ever say this. The jurists are similar: they judge a hadith which the hadith-scholars authenticated from the perspective of the chain as being weak or abrogated or interpreted from the perspective of the meaning after comparing it with the Book of Allah and the well-known Sunnah. It is not permissible for anyone to criticise them with [the charge of] opposing hadith and accuse them of opposing the Prophet (Allah bless him and grant him peace) for indeed they were the most learned of the people on the meanings of the speech of Allah's Messenger (Allah bless him and grant him peace) just as the hadith-scholars were the most learned of them of its outward and its chain, so understand and do not be from the heedless.

Imam Abu Hanifah's Methodology in Taking from a Sahabi

Ibn al-Qayyim said in *I'lam al-Muwaqqi'in*:

> Nu'aym ibn Hammad said: Ibn al-Mubarak narrated to us: He said: I heard Abu Hanifah say: "When [a ruling] comes from the Prophet (Allah bless him and grant him peace), it is [accepted] on head and eye [i.e. wholeheartedly], and when it comes from the Sahabah, we choose from their opinions, and when it comes from the Tabi'in we rival them."[186][187]

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[185] Abu al-Khayr Muhammad ibn 'Abd al-Rahman al-Sakhawi, *al-Maqasid al-Hasanah*, ed. 'Abd Allah Muhammad al-Siddiq, 1399 H/1979 CE, Beirut: Dar al-Kutub al-'Ilmiyyah, pp. 36-7

[186] Ibn 'Abd al-Barr narrated a number of such narrations from Abu Hanifah in his *al-Intiqa' fi Fada'il al-A'immat al-Thalathat al-Fuqaha* (Abu 'Umar Yusuf ibn 'Abd al-Barr, *al-Intiqa' fi Fada'il al-A'immat al-Thalathat al-Fuqaha*, ed. 'Abd al-Fattah Abu Ghuddah, 1417 H/ 1997 CE, Beirut: Dar al-Basha'ir al-Islamiyyah, pp. 264-7)

[187] Ibn al-Qayyim, op. cit. 5:555

And he said:

> If a Sahabi does not oppose another Sahabi…and if his opinion is not well-known or it is not known if it was well-known or not, is it a proof or not? That which the majority are upon is that it is a proof, and this is the opinion of the majority of the Hanafis, as expressed by Muhammad ibn al-Hasan and was narrated from a clear statement of Abu Hanifah.[188]

I say: This is not absolute. Rather, it is understood to be when the [possibility that] the Sahabi erred in the issue does not dominate his mind, because if [the possibility of] his error does dominate his mind by examining the proofs of the Shari'ah, its conflicting [view] will be preferred. Hence, his statement will not be a proof therein. The reason for this is that the basis of preferring his opinion is merely good opinion of him while believing he is not secure from error, so if his error is preponderant according to the *mujtahid* due to proofs [to the contrary], mere good opinion of him no longer remains a proof, because proof with respect to the *mujtahid* is his opinion and judgement, so whenever the preponderant [view] according to him is its being correct due to good opinion of him, his knowledge, understanding, religion and piety, that opinion is a proof with respect to him, and if [the possibility] that he erred in [his] judgement (*khata' ijtihadi*) on the issue dominates his opinion, that opinion is a proof with respect to him.

The upshot is that when there is no proof in an issue besides the statement of a Sahabi, his statement is a proof therein due to the good opinion of him that he would not say this but because of proof, and if there is another proof besides his statement, the proof in that case will be what dominates the mind of the *mujtahid* that it is correct. This is the conclusion, so understand this.

How can a Mufti be certain that his Fatwa is the Position of the Imam?

Ibn al-Qayyim said in *I'lam al-Muwaqqi'in* in the "fourteenth benefit":

> When the mufti is asked about an issue, either the intention of the questioner therein is knowledge of the ruling of Allah and His Messenger and nothing besides [them], or his intention is knowledge of what the Imam said who the mufti has made known that he follows him and imitates him besides other than him from the Imams, or his intention is knowledge of what is preferred according to the mufti…
>
> The obligation on the mufti in the first category is to respond with the ruling of Allah and His Messenger when he knows it and is certain of it, and nothing besides this is permissible for him. As for the second category, when he knows the opinion of the Imam himself, it is permissible for him to inform [him] of it, and it is not permissible for him to attribute to him an opinion and unqualifiedly say it is his opinion merely according to what he sees in some books which he memorised or read from the speech of those affiliated to him, since the opinions of the Imams and their fatwas have become mixed-up with the opinions and preferences of those affiliated to them, so not everything that is in their books is quoted from the Imams, rather much of it contradicts their statements, and much of it they have no statement on, and much of it is extracted from their fatwas, and much of it they issued fatwa on it according to his wording or his purport, so it is not permissible for anyone to say, "This is the opinion of so-and-so and his *madhhab*," unless he knows for sure that it is his opinion and his *madhhab*. So how great is the danger of [being a] mufti and the difficulty of his position before Allah?![189]

[188] Ibid. 5:548-50
[189] Ibid. 6:73-4

He said in the "twentieth benefit":

> It is prohibited for the holder of this position [i.e. the mufti of a *madhhab*] to say, "The *madhhab* of al-Shafi'i is such-and-such" when he does not know that it is the statement with which he issued fatwa or that its popularity amongst the scholars of the *madhhab* is [such] a popularity that locating his statement is not required with it, like the popularity of his *madhhab* on saying the *basmalah* [i.e. *bismi llahi l-Rahman al-Rahim*] aloud, the *qunut* in Fajr, the obligation of consolidating the intention of an obligatory fast in the night, and the like of this.
>
> As for what he merely finds in books attributed to his *madhhab* from the peripherals, it is not permissible for him to attribute it to his statement and his *madhhab* due only to it being found in their books, for how many issues are therein on which he has no statement at all, nor what indicates to it, and how many issues are therein on which his statement is contrary to it, and how many issues are therein on which the affiliates [to his *madhhab*] differ on attributing it to the requirement of his statement and his *madhhab*, hence one attributes its affirmation to his *madhhab* and one attributes its negation to it? Thus, we do not know how it is permissible with Allah for the mufti to say, "This is the *madhhab* of al-Shafi'i" and "this is the *madhhab* of Malik" and "Ahmad" and "Abu Hanifah." As for his statement…"This is the requirement of the *madhhab* of al-Shafi'i," by Allah that will not be accepted from all who are given the post of fatwa until he knows the source of the founder of the *madhhab*, his perceptions and his foundations collectively and separately, and he knows that this ruling is in accordance with his foundations and principles after expending his effort to know this therein, and when he says that this is the requirement of his *madhhab*, he has the precedent of his likes of those who spoke using the extent of their knowledge, and Allah does not charge a soul besides its capacity.[190]

I say: We do not deny that ascertainment in this regard is from the responsibilities of the mufti, but when it is permissible for you to say, "This is the statement of Allah's Messenger (Allah bless him and grant him peace)," because al-Bukhari narrated it in his book or because so-and-so authenticated it while you do not know the basis of the authentication, and the basis of this opinion of yours is only reliance on the honesty of the one who authenticated [it], his integrity and his expertise in the science, so how is it not permissible for the mufti to rely on the books of the *madhhab* which the mufti believes about their authors honesty, integrity and expertise in knowledge of the *madhhab*? As for the possibility of error, it is equal in both scenarios, because most of the principles of hadith-crticisim are probabilistic (*zanniyyah*) and differed upon amongst the imams. And if you were to consider carefully, you would discover that the avenues of error in that which is attributed to Allah's Messenger (Allah bless him and grant him peace) are more than that which the mufti attributes to the founder of the *madhhab*. Hence, since it is permissible for you to attribute to the Messenger of Allah (Allah bless him and grant him peace) a statement despite the multiple avenues of error, the permissibility for the mufti of attributing a statement to the Imam with fewer possibilities [of error] is more deserving.

It is apparent from this verification that what this speaker said at the start of this "benefit," that "it is not permissible for the *muqallid* to issue fatwa in the religion of Allah according to what he follows while having no knowledge of it except that it is the opinion of the one to whom he entrusts his religion, and this is the consensus of the entire Salaf,"[191] is a false statement, because this speaker himself does not speak about the religion of Allah except through *talqid* because when he says, "This is the statement of Allah's Messenger (Allah bless him and grant him peace)," we say to him, "Have you heard this from

[190] Ibid. 6:100-1
[191] Ibid. 6:99

Allah's Messenger (Allah bless him and grant him peace)?" He must say, "No," and then we will say to him, "Then why do you say that Allah's Messenger (Allah bless him and grant him peace) said such-and-such?" He must say, "So-and-so narrated it from so-and-so," so we say to him, "Have you seen these narrators and experienced for yourself that they are reliable and trustworthy combining the conditions of narration?" He must say, "No, rather so-and-so said they are reliable and trustwowrthy," then we say to him, "Did that so-and-so see those narrators and experience them himself?" he must say, "No, rather he experienced some of them himself and he relied for some on the opinion of another and he declared some of them trustworthy by his expertise and skill without seeing him even once let alone having experience with him." Then we will say to him, "Have you found evidence that what that speaker said is correct?" He must say, "There is no proof with us for this besides good opinion of the speaker and relying on his imamate and expertise." Then we say to him, "Since it is permissible for you to attribute a speech to Allah's Messenger (Allah bless him and grant him peace) through *taqlid* of that speaker and that is permissible for him through *taqlid* of another, how is it not permissible for a *muqallid* to speak in the religion of Allah via *taqlid*?"

As for the difference between your speech in the religion of Allah through *taqlid* and the speech of that *muqallid* [through *taqlid*], he certainly will not be able to find an effective difference between the two *taqlid*s. Hence, since it is established that this speaker also speaks in the religion of Allah through *talqid*, it is established that this statement of his is a baseless statement, and its attributuion to all of the Salaf is an incorrect claim.

This speaker said in the "twenty-ninth benefit":

> You will not find any of the imams except he is a *muqallid* of one more learned than him in some rules. Al-Shafi'i said in one section of Hajj: "I say this in deference to 'Ata'"[192]

Since it is permissible for a *mujtahid* to issue fatwa in some issues through *taqlid*, how is it not permissible for the *muqallid* to issue fatwa through it? Is this but incoherence?

Al-Shafi'i's Instructions to leave his Opinions for Hadith

Ibn al-Qayyim said in *I'lam al-Muwaqqi'in*:

> Al-Shafi'i statement, "When you find in my book [anything] contrary to the Sunnah of Allah's Messenger (Allah bless him and grant him peace), take the Sunnah of Allah's Messenger and leave what I said,"[193] and similarly his statement, "When a hadith is *sahih* from the Prophet (Allah bless him and grant him peace), and I have given a verdict [contrary to it], then I retract from my verdict and accept the hadith," and his statement, "When a hadith from Allah's Messenger is *sahih*, throw my opinion on the wall," and his statement, "When I narrate a hadith from Allah's Messenger (Allah bless him and grant him peace) and I have not adopted it, know that my mind has gone!"[194] and other than these [statements] from his speech with this meaning are explicit in their indication that his *madhhab* is that which is proven by hadith not his opinion that is contrary to it. It is not permissible to attribute to him what contradicts a hadith and say, "This is the *madhhab* of al-Shafi'i," and it is not permissible to issue fatwa on something contradicting hadith based on it being al-Shafi'i's *madhhab*, nor pass judgement on it. This was stated by a group of the imams from his followers, such that one of them said to a reciter who read to him a juristic issue from his [i.e. al-Shafi'i's] speech in opposition to an

[192] Ibid. 6:125
[193] Al-Bayhaqi narrated it in *Manaqib al-Shafi'i* (Al-Bayhaqi, *Manaqib al-Shafi'i*, op. cit. 1:472-3)
[194] Ibid. 1:474

> authentic hadith, "Delete this juristic issue [from his book] for it is not his *madhhab*." This is certainly correct even if he did not state it explicitly, so what if he had stated it, clarified it and retracted from it, using words that are clear in their indication?[195]

This is baseless speech which does not spread but amongst fools, since there is no permission therein for everyone to attribute to him whatever he wishes merely due to the authenticity of a hadith according to him and its indication contrary to the opinion documented from al-Shafi'i by his mere opinion, for otherwise in one issue al-Shafi'i would have two contradictory opinions simultaneously when a hadith contrary to it is authentic according to one and not authentic according to another, since hadiths are differed upon with respect to their authenticity, and differed upon with respect to their indication. None would say this but an ignoramus.[196]

This speaker transmitted from him in the first volume of this book of his:

> Al-Shafi'i said as was narrated from him by al-Khatib in his book *al-Faqih wa al-Mutafaqqih*: "It is not permissible for anyone to issue fatwa in the religion of Allah, except a man well-acquainted with the Book of Allah: its abrogator (*nasikh*) and its abrogated (*mansukh*), its decisive (*muhkam*) and its ambiguous (*mutashabih*), its interpretation and its revelation, its Meccan and its Medinan [*suras*], and what is meant thereby; and he must, thereafter, be insightful of the hadith of Allah's Messenger (Allah bless him and grant him peace) and of the abrogator and the abrogated, and have knowledge of hadith equivalent to the knowledge that he has of the Qur'an; and he must be insightful of language, insightful of poetry and all that is needed for [understanding] the Sunnah and the Qur'an; and he must use this with fairness (*insaf*); and he must, thereafter, be aware of the disagreements (*ikhtilaf*) of the people of the towns, and he must possess a natural talent thereafter. Once this is so, he may speak and issue fatwa on the lawful and the unlawful, and when this is not so, he may not issue fatwa."

Thus, the one who makes such conditions which are not found but in the absolute *mujtahid* (*al-mujtahid al-mutlaq*) prerequisites for the mufti, how can he allow anyone to attribute to him what he did not say merely due to the authenticity of a hadith according to him and its indication contrary to what al-Shafi'i said according to his opinion? How is al-Shafi'i to accept the opinion of every ignoramus and become an ignorant mufti after being a knowledgeable mufti, while he himself forbade fatwa for an ignorant mufti?

This is from the basest of falsehoods, for it is apparent from this in the clearest way that what he understood from the statements of al-Shafi'i is not the intent of al-Shafi'i – far-removed is he from that – rather it is a suggestion from his soul. Since this is their condition in understanding the speech of the Imams, where they consider their speech explicit in what is certainly not their intent, what would be their condition in understanding the speech of the Messenger, of whom they put conditions to understand his speech which are not found except in an absolute *mujtahid*? The real [intent] of these statements [from al-Shafi'i] is only to declare the absolute truth that proof is the saying of Allah's Messenger (Allah bless him and grant him peace), not my statement, so do not believe my opinion is an independent proof, and I seek innocence before Allah from what I said contrary to Allah's Messenger (Allah bless him and grant him peace). This truth does not entail what this speaker attributed to him (Allah have mercy on him) of allowing the attribution to him of every opinion in which a hadith is authenticated according to any speaker.

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[195] Ibn al-Qayyim, op. cit. 6:160-1

[196] See al-Nawawi's commentary on these statements from al-Shafi'i in the second essay from the Appendix

Understand this, and do not be deceived by such words as this speaker and those who imitate him have been deceived by them with such slips and faults [arising] from fools who say, "When a hadith is *sahih* in opposition to the *madhhab* of a *mujtahid*, it is necessary for everyone to leave his opinion because it is not the *madhhab* of that imam, rather his *madhhab* is what is authentic in the hadith." We have no argument that the *madhhab* of the *mujtahid* is what is authentic in the hadith, but the argument is about their statement, that "this is the authentic hadith in opposition to it," because if the speaker is ignorant, he is not qualified to say the *mujtahid* is wrong, and if he is a *mujtahid*, there is still no proof in his statement because the opinion of one *mujtahid* is not a proof for another *mujtahid*. If you say, "Then the door of *taqlid* will close because in *taqlid* of one *mujtahid*, the other is found in error," we say: "No, absolutely not, since *taqlid* is one thing and finding [someone] in error is another thing, and it is not equivalent to it nor necessitated by it, as is not hidden."

By this [explanation], the reason for which the jurists have said that it is impermissible to leave one *madhhab* for another *madhhab* becomes clear, because if it was by way of finding the *madhhab* that he left to be in error, then he is not qualified for this, and if it is by way of preference, he is also not qualified for this, so there is no reason for shifting [*madhhab*s] but passion or something not taken into consideration, so it is not permissible, especially since this practice will open for him the door of following desires and passions. If you say, "When he is not qualified to prefer, how will he choose one *mujtahid* for *taqlid* over another?" I say, "Preferring a *mujtahid* does not require specific proof, rather the inclination of the heart to that [*madhhab*] which he selected for *taqlid* and good opinion of it for any reason is sufficient therein, as opposed to preferring one juristic issue over another juristic issue, for that does not [arise] but from proof and he is not qualified to adduce proof. This is the difference, so understand."

The weak servant says: Moreover, preferring one *mujtahid* over another is [due to] the *madhhab* of the first being prevalent in his lands and the convenience of referral to the 'ulama of his *madhhab* and his books, and not the second. Hereof, you see the *madhhab* of al-Shafi'i prevalent in Egypt and Hijaz, and the *madhhab* of Malik in the Maghrib, and the *madhhab* of Abu Hanifah in Persia, Rome, India, Sind and other [lands] due to the prevalence of the 'ulama of these *madhhabs* in those lands, so understand, and Allah (Exalted is He) knows best.

Can a Layman issue Fatwa and act upon Hadiths he believes to be Authentic?

Ibn al-Qayyim (Allah have mercy on him and forgive him) said in "the forty-eighth benefit" of *I'lam al-Muwaqqi'in*:

> When a man has the two *Sahih*s or one of them or a book from Allah's Messenger (Allah bless him and grant him peace) whose contents are reliable, is it permissible for him to issue fatwa according to what he finds therein?
>
> A group of the latter-day scholars (*muta'akhkhirin*) said, he may not [do] this because it may be abrogated, or may be contradicted [by stronger evidence], or he may have understood from its indication [something] contrary to what it indicates, or the command [in the hadith] is for desirability and he understands it as an obligation, or it may be general and it has a specifier or it may be absolute and it has a qualifier; thus, he may not act upon it, nor issue fatwa according to it, until he asks the scholars of jurisprudence.
>
> A group said, yes, he may act upon it and issue fatwa according to it, rather this is stipulated for him, just as the Sahabah would do: When a hadith from Allah's Messenger (Allah bless him and grant him peace) reached them and some of them informed others of it, they hastened to

act upon it without reservation or in search of contradicting [evidence], and none of them ever said, "Has so-and-so and so-and-so acted upon it?" and if they saw anyone who said this, they would condemn him with the strongest of condemnations; and likewise the Tabi'un. This is known by necessity for whoever has the least experience with the condition of this group [i.e. the Sahabah and the Tabi'in] and their conduct. The length of time after the Sunnah, its distance and its oldness do not give permission to not adopt it, and act upon other than it. If the traditions of Allah's Messenger (Allah bless him and grant him peace) were impermissible to act upon [even] after their authenticity until so-and-so and so-and-so acted upon it, the opinion of so-and-so and so-and-so would be a standard over the traditions and would be their accreditor and a condition for acting upon them, and this from the basest of falsehoods. Allah has established proof through His Messenger, not individuals of the ummah, and He has commanded the Prophet (Allah bless him and grant him peace) to convey his traditions and he supplicated for those whom it reached, so if upon its arrival it was not acted upon unless imam so-and-so and imam so-and-so acted upon it, there would be no benefit in its conveyance, and the opinion of so-and-so and so-and-so would be sufficient.

They [i.e. the latter group] said: The abrogation that occurs in hadiths which the ummah have agreed upon do not reach even ten hadiths, rather not even half of this. Hence, the possibility of error occurrung due to accepting an abrogated [hadith] is much less than the error occurring in *taqlid* of one who is right and is wrong, and in whom contradiction and discrepancy is possible, and he [sometimes] formulates an opinion and then he retracts from it, and in one issue a number of opinions are related from him; and the occurrence of error in understanding the speech of an infallible is much less than the occurrence of error in understanding the speech of a specific jurist. Hence, the possibility of error for one who acts upon a hadith and issues fatwa according to it is not imagined, except that many many times this is realised for one who issues fatwa according to the *taqlid* of one whose error he does not know from his rightness.

The truth in this matter is [to make] a distinction:

If the indication of the hadith is obvious and clear to all who hear it, and there is no possibility of another intent, he may act upon it and issue fatwa according to it, and not seek its commendation from the opinion of a jurist or imam, rather the proof is the statement of Allah's Messenger (Allah bless him and grant him peace), even if those who oppose it oppose it.

If its indication is hidden and the intent of it is not clear to him, it is not permissible for him to act upon or issue fatwa according to what he imagines is [its] intent until he asks and seeks an explanation of the hadtih and its meaning.

If its indication is obvious, like [the indication of] the general to its particulars, [the indication] a command to obligation, [the indication of] prevention to prohibition, can he act upon and issue fatwa according to it? This is derived from the principle that practice is on the outward before searching for secondary factors. There are three opinions in the *madhhab* of Ahmad on this: permissibility, prohibition and distinguishing between the general and the specific, so [the general] is not acted upon before searching for a specifier, and the [specific] command and prohibition is acted upon before searching for secondary factors.

This is all when there is some kind of ability but he is deficient in knowledge of the peripherals (*furu'*) and the principles of the theoreticians (*usuliyyin*) and Arabic, and when there is no ability at all, his duty is what Allah (Exalted is He) said, "Ask the people of remembrance if you

> do not know" (16:43), and the statement of the Prophet (Allah bless him and grant him peace) "Do they not ask when they do not know? For indeed the only remedy for ignorance is to ask." When it is permissible for the questioner to rely on what the mufti has written from his speech or from the speech of his teacher and if he rises and ascends, then from the speech of his Imam, then it is more deserving that a man is permitted to rely in what trustworthy [individuals] wrote from the speech of Allah's Messenger (Allah bless him and grant him peace). If it is assumed that he does not understand hadith like if he does not understand the fatwa of a mufti, he is to ask one who will make him understand its meaning just as he asks one who will make him understand the meaning of the mufti's answer. And accordance is with Allah.[197]

I say: In this statement there are a number of infractions:

First, that which he said on the obligation for the layperson to act on hadith and issue fatwa according to what he opines, he did not say this based on a clear text, rather mere opinion, pure analogy and judgement. Is his opinion, analogy and judgement a proof for the ummah, while the opinion of a *mujtahid* and his judgement is not a proof for them? This is nothing besides obstinacy and argumentation. Would that I knew where those premises have gone which they used as arguments against the *muqallid*s from their minds, when they obligate something on the ummah and they prohibit [something] else from their minds, judgements, opinions and anlogies, of the proof being in the statement of the Messenger, not in the opinion of so-and-so and so-and-so and other such [statements], while they don't observe them with respect to themselves and use them as arguments against others! Is this anywhere close to justice? Reflect on this.

Refutation of those who Believe in the Obligation of Acting upon Hadith Absolutely

Secondly, he transmitted the opinion of the group which deems acting upon hadith in an absolute manner obligatory and he did not warn of its depravity, so it is necessary for us to warn [of it], so we say: There are [a number of] fallacies therein:

First, they adduced as proof for acting on hadith for a non-*mujtahid* using his personal opinion the practice of the Sahabah and Tabi'in while this is a false deduction because whoever from them was a *mujtahid*, he would act upon his *ijtihad* and whoever was not a *mujtahid*, he would act upon the fatwa of a *mutahid*, and none of them are known to have acted upon their personal *ijtihad* while being a non-*mujtahid*, and whoever claims [otherwise] must give evidence. If it were conceded for their sake that there were amongst them those who would do so, how is it permissible for them to draw proof from their practice while they say that there is no proof in the action or opinion of anyone besides the Messenger, so it is incumbent on them to draw proof from a text which the ummah have agreed is authentic and its indication is in accordance with their claim, and where will this [be found] for them?

From that which proves the depravity of their statement, "When a hadith from Allah's Messenger (Allah bless him and grant him peace) reached the Sahabah and some of them informed others of it, they hastened to act upon it without reservation or in search of contradicting [evidence]," is that Abu Hurayrah narrated to Ibn 'Abbas a hadith on *wudu'* breaking from whatever touches fire and Ibn 'Abbas did not act upon it, rather he rejected it due to his belief that Abu Hurayrah erred therein, while the hadith was more authentic than all that al-Bukhari and others narrated in the manner of the hadith-scholars, since the intermediaries between al-Bukhari, Muslim and others and the Prophet (Allah bless him and grant him peace) are many, while there are no intermediaries between Abu Hurayrah and the Prophet (Allah bless him and grant him peace), and Abu Hurayrah was much more upright and

[197] Ibn al-Qayyim, op. cit. 6:162-4

trustworthy that the narrators of al-Bukhari. Similarly, ‘Umar rejected the hadith of Fatimah bint Qays on dropping maintenance and lodging for a woman who has been irrevocably divorced, despite the hadith being much more authentic than what al-Bukhari and others narrated and authenticated.

Hence, it is established that what they attributed to the Sahabah, that they would hasten to act on everything that reached them without searching for contradicting [evidence] is completely false. Similar is what he attributed to the Tabi‘in because Ibn ‘Umar narrated a hadith on the permission of women to go out to the mosques and his son did not act upon its outward [meaning], rather he rejected its ourtward [meaning] due to the contradiction between it and the texts prohibiting adultery and its precursors. If one were to investigate, he will find many examples of what we said.

[Even] after accepting what they said, it will be said to them that the method of the Sahabah and Tabi‘in was not the hadith-scholars' method of narration who narrate all that reached them in the form of transmission to an understanding person and one more understanding, rather their narration was in the form of issuing fatwa. It is known that when an ‘alim issues fatwa to a non-‘alim, that non-‘alim is not required to consider the circumstance because considering the circumstance is from the tasks of a knowledgeable mufti, not from the tasks of the ignorant questioner, so they are not required to search for secondary factors; as distinguished from this practitioner of hadith who sees a hadith in the books of hadith and acts upon it himself and issues fatwa on it it to others because he is required to search for secondary factors as is not hidden. Hence, it is obvious that the analogy with the Sahabah and Tabi‘in is an invalid analogy.

From that which proves the depravity of their statement is that the Imams on whom the ummah have agreed on their imamate would not venture into issuing fatwa until those whose opinion is relied upon gave testimony in their favour that they are qualified for it. Ibn al-Qayyim narrated this from Malik and he also narrated from Imam Ahmad that he said that the mufti must memorise four hundred thousand hadiths before issuing fatwa.

Hence, if it was from the practice of the Sahabah and Tabi‘in to issue fatwa according to all that reaches them with a sound chain, these Imams would not be ignorant of this from them, and had they known this of them they would not go against them to [something] else. By this explanation, it is obvious what he said is fallacy.

Third, that he said, "The length of time after the Sunnah, its distance and its oldness do not give permission to not adopt it," and the reason it is a fallacy is that he assumes that those from the *muqallid*s who don't act upon a hadith leave it only due to the length of time after the Sunnah and its distance and oldness which is definitely false, and none from the Muslims says this. Rather, their avoidance of acting upon it is only due to their bad opinion of themselves and reliance on their Imams. This practice of theirs is similar to the practice of these [ignorant "*mujtahid*s"] in their avoidance of some hadiths narrated from Allah's Messenger (Allah bless him and grant him peace) in order to rely on their imams and their principles, their thoughts and their opinions. It is obvious that what he said is pure fallacy.

Fourth, that he said, "If the traditions of Allah's Messenger (Allah bless him and grant him peace) were impermissible to act upon [even] after their authenticity until so-and-so and so-and-so acted upon it, the opinion of so-and-so and so-and-so would be a standard over the traditions and would be their accreditor and a condition for acting upon them," and the reason this is a fallacy is that the meaning of "standard" is that one makes his personal opinion an independent proof, so whatever agrees with his opinion and he considers good he accepts it and whatever contradicts it he rejects it, and none from the Muslims do this with the hadiths of Allah's Messenger (Allah bless him and grant him peace), and a *muqallid* does not believe this of his Imam, so how is it sound to [believe that the *muqallid*s] consider

the opinion of so-and-so and so-and-so a standard over the traditions? The end-result of the practice of the *muqallid*s is [*taqlid*] in understanding the meanings of hadiths just as the people of hadith rely on their imams in criticising its chain and commending its narrators and criticising them. Do you not see that you do not authenticate a hadith that your imams have not authenticated? Are you then making their opinion a standard over the traditions? Since this is not so, how can you [claim the *muqallid*s] consider the opinion of so-and-so and so-and-so from the jurists a standard over them. Rather, you sometimes leave a hadith due to your personal opinions although you do not make your opinions a standard over the traditions. So how is your claim that they make the opinion of so-and-so and so-and-so a standard over the traditions correct? It is apparent what he said is fallacy.

Fifth, that they said, "Allah has established proof through His Messenger, not individuals of the ummah," and the reason for this being a fallacy is that they produced a true statement and intended falsehood by it, because proof is of two kinds: First, proof due to the essence of the speaker and second, proof due to it unveiling the statement of one who is a proof. The first type is specific to Allah and is not established for another, and the second type from them is established for Allah's Messenger (Allah bless him and grant him peace) due to his speech unveiling the speech of Allah (Exalted is He), and for the 'ulama and *mujtahid*s from his ummah because their speech unveil the speech of Allah's Mesenger. These [non-*muqallid*s] affirm proof for the Messenger and negate it for other than him from the individuals of the ummah. If they mean by proof in the speech of Allah's Messenger the first type which is proof by the essence of the speaker, then they are correct in negating it from the individuals of the ummah but they are wrong in affirming it for Allah's Messenger (Allah bless him and grant him peace). Furthermore, this opinion does not serve what they intended from it because no one will say that the speech of individuals of the ummah is a proof in itself. And if they mean by proof in both cases the second type from it, then they are correct in affirming it for Allah's Messenger (Allah bless him and grant him peace) but wrong in absolutely negating it from the individuals of the ummah.

Do you not see that they argue using the opinions of the imams of hadith in that this is the speech of Allah's Messenger (Allah bless him and grant him peace) and this is not from his speech, rather they argue against their opponents using what they believe and think is the speech of Allah's Messenger (Allah bless him and grant him peace), so if proof is negated absolutely from individuals of the ummah, how is this argument from their imams' opinions and their personal opinions permissible? Hence, it is apparent what they said is fallacy.

Sixth, that they said, "He has commanded the Prophet (Allah bless him and grant him peace) to convey his traditions and he supplicated for those whom it reached, so if upon its arrival it was not acted upon unless imam so-and-so and imam so-and-so acted upon it, there would be no benefit in its conveyance, and the opinion of so-and-so and so-and-so would be sufficient," and the reason for this being a fallacy is:

First, that he limited the benefit of transmission to it being practiced by all to whom it reached using personal opinion which is baseless because this purpose is not mentioned in the text in which Allah's Messenger (Allah bless him and grant him peace) commanded transmitting [his sayings] neither explicitly nor implicitly let alone limiting this purpose to what he said. Rather, the purpose of it which he (Allah bless him and grant him peace) alluded to in his statement, "For often the carrier of *fiqh* (jurispudential knowledge) is not a *faqih* (jurist) and often the carrier of *fiqh* [carries it] to one who has more *fiqh* than him,"[198] is that it gives understanding to the *faqih* or one who has more *fiqh*, and he guides the non-*faqih* to the way of practicing it, so he acts on it through his direction and guidance and

[198] Abu Dawud, al-Tirmidhi and Ibn Majah narrated it (Abu Dawud, op. cit. 4:244, al-Tirmidhi, op. cit. 4:393, Ibn Majah, op. cit. p. 58) with a *hasan* chain according to al-Tirmidhi

does not fall into error by acting on his personal opinion just as those who say it is obligatory to act upon all that reaches them using their *ijtihad* fell into. Hence, the hadith is a proof against them not for them.

If what they said was conceded, it would be said to them, "When the objective of transmission is practicing all that reaches one, why do you leave some hadiths and accept some of them, and you invent about the lawgiver [that he expressed] an objective of transmission?" Thus, this proves that what they understood from the hadith is not sound, and what they argued as a consequence of it is not necessary.

Second, that they argued, on the assumption of not practicing a hadith through one's personal opinion, sufficiency is acquired through the opinion of so-and-so, and the baselessness of this argument is not hidden to one who has the least understanding because there is no connection between what they made a cause and what they made a consequence since one who apparently leaves a hadith due to sufficing with the opinion of his Imam, he is practicing another hadith which the Imam has adopted due to his belief about his Imam that he would not oppose a hadith of Allah's Messenger (Allah bless him and grant him peace) unless it conflicts with the Book of Allah and the famous Sunnah, or is abrogated or construed according to an interpretation which the literalists from the hadith-scholars did not understand. Besides this, it is conceded by them also because they do not allow practicing a hadith unless al-Bukhari and his likes have said, "This is *sahih* and established," but despite this, they do not state their opinion is sufficient, so how is their argument [against the *muqallid*s] on acquiring sufficiency through the opinion of so-and-so and so-and-so sound? Hence, it is apparent what they said is fallacy.

Seventh, that they said, "The abrogation that occurs in hadiths which the ummah have agreed upon do not reach even ten hadiths, rather not even half of this. Hence, the possibility of error occurrung due to accepting an abrogated [hadith] is much less than the error occurring in *taqlid* of one who is right and is wrong, and in whom contradiction and discrepancy is possible, and he [sometimes] formulates an opinion and then he retracts from it, and in one issue a number of opinions are related from him," and the reason for this being a fallacy is first, that the upshot of the comparison is that they are saying, "The assumption of error occurring in the one who acts upon hadith accepting an abrogated [hadith] is much less than error occurring in the Imam of that *muqallid* accepting an abrogated [hadith]." It is not hidden that this is distortion and deception because the possibility of the *mujtahid* accepting an abrogated [hadith] is far less likely than the possibility of the one who [unrestrictedly] acts upon hadith accepting it, so *taqlid* of a *mujtahid* is preferred.

As for what they said that a *mujtahid* "is right and is wrong, and contradiction and discrepancy is possible from him, and he gives an opinion and retracts from it, and relates in one issue a number of opinions," it is accepted but does not harm us because the one who acts upon hadith [acts upon it] using his personal opinion, the opinions of the imams of hadith and the opinions of the narrators and in the same way, his imams and his narrators are also not infallible, rather the possibility of error from them is greater than the possibility of error from the *mujtahid*. Hence, it is apparent what they said is pure fallacy.

Second, that they conceded in this statement that accepting an abrogated [hadith] which is differed upon with respect to its abrogation is not wrong as is indicated by their qualification of the abrogated [hadith] by it being agreed upon by the ummah. If that is conceded for their sake, it means the error of a *mujtahid* which the ummah have not agreed on it being an error is not an error, and its consequence is that one [may] not say of a *mujtahid* that he erred in any of his opinions because it is not known of a *mujtahid* that he accepted something which the ummah have agreed on its invalidity, while these [non-*muqallid*s] consider him wrong in disputed issues and do not consider one who acts upon hadith using his personal opinion wrong in accepting an abrogated [hadith] the abrogation of which is differed upon. Is this but fallacy and obstinacy?

Eighth, that they said, "The occurrence of error in understanding the speech of an infallible is much less than the occurrence of error in understanding the speech of a specific jurist," and the reason for this being a fallacy is:

Firstly that they consider hadith from the speech of an infallible and consider the speech of a jurist from his personal speech and they don't know that the speech of a jurist is also taken from Allah's Messenger (Allah bless him and grant him peace) and is not from himself just as the hadith is taken from him. Just as the possibility of error exists in taking from a *mujtahid*, it similarly exists in taking from narrators and [accepting] the accreditation and authentication of the hadith-scholars because most of the narrators are not *mujtahid*s and they transmit hadith using a meaning which they understood from his speech so there is a possibility of error in accepting [what they narrate], and added to this is the possibility of lying and inaccuracy; moreover, those who declared the narrators trustworthy and accredited them, they did not experience them for themselves as is apparent from their declaring those they did not meet trustworthy, rather most of their assessments of trustworthiness are based on assumptions and opinions which are not free from error; moreover, those who declare hadiths *sahih* and *hasan*, the basis of these assessments is mere assumpotion which are also not free from error. With these possibilities, how is it sound to definitely consider hadith from the speech of an infallible and definitely [consider] the speech of a jurist to be from his own speech due to the possibility of error in *ijtihad*, while the possibility of error in hadith is more than its possibility in the speech of a *mujtahid* due to the small number of intermediaries between the *mujtahid* and the Messenger of Allah (Allah bless him and grant him peace) and their frequency between the one who extracts hadith and the one who authenticates it, and the nearness of the time of the *mujtahid* to Allah's Messenger (Allah bless him and grant him peace) and his sharp understanding and his sound mind.

Secondly, that he considered the one who acts upon hadith to be an imitator of an infallible and the *muqallid* to be an imitator of one who's error is not known from his rightness while just as the *muqallid* is imitating one whose error is not known from his rightness, similarly the one who acts upon hadith imitates one whose error is not known from his accuracy because he is an imitator of the narrators of hadith in what they said, "This is the speech of Allah's Messenger (Allah bless him and grant him peace)," and then they are imitators of the imams of hadith in their statement, "So-and-so is trustworthy" or "truthful" or other than that, and "the hadith is *sahih*" or "*hasan*" or other than that, and along with this, he is an imitator of himself in preferring one opinion from the hadith-scholars when there is disagreement in narrator-criticism and authentication, and thereafter he is an imitator of himself in what he believes is the meaning of the hadith and its purport; all of these [steps] are not free from error, so how can it be said he is imitating an infallible?

Third, that they said there is a higher possibility of error occurring in the understanding of the speech of a jurist with respect to its occurrence in the understanding of hadith, and this is obviously wrong. Hence, it is apparent what they said is fallacy.

Ninth, that they said, "The possibility of error for one who acts on a hadith and issues fatwa according to it is not imagined, except that many many times this is realised for one who issues fatwa according to the *taqlid* of one whose error he does not know from his rightness," and the reason for this being a fallacy is obvious from what we said. The likeness of one who acts upon hadith using his personal opinion is the likeness of an ignorant doctor who treats himself and others using books on medicine and says, "I take treatment from Galen and his likes without an intermediary and need not gain expertise at the hands of doctors who know the method of treatment because they took from so-and-so and so-and-so through many intermediaries from Galen." The feeblemindedness of this and its invalidity is not hidden. So it is apparent from this explanation and verification that all that this group said in making

acting upon hadith for those unqualified [for *ijtihad*] using personal opinion obligatory are errors and fallacies.

Now, let us return to what we were discussing, in explaining the depravity of Ibn al-Qayyim's speech, so we say:

The third of the reasons of depravity in his speech is that he considered the distinction [between a hadith that is clear in its indication and one that is not] accurate using merely his opinion and there is no proof in his opinion.

Fourth, that he said, "If the indication of the hadith is obvious and clear to all who hear it, and there is no possibility of another intent, he may act upon it and issue fatwa according to it, and not seek its commendation from the opinion of a jurist or imam, rather the proof is the statement of Allah's Messenger (Allah bless him and grant him peace), even if those who oppose it oppose it," and [the fallacy] in this is that there is no speciality in the statement of Allah's Messenger (Allah bless him and grant him peace) via a hadith which's indication is clear being proof, rather it [i.e. the statement of Allah's Messenger (Allah bless him and grant him peace)] is a proof in totality, so what is the meaning of this specification?

If he says, "We accept it is a proof always but we specify hadith with a clear indication for practice due to the possibility of error occurring in other than it," we say, "This possibility is found in every hadith because the possibility of error is not limited to understanding [something] besides the indication as the indication, rather it has other avenues, like contradicting what is stronger than it or being abrogated. The clarity of the indication is not free from the like of such error."

Moreover, it is not stated clearly in a hadith that it is clear in [its] indication whereby its indication is not hidden to anyone, rather it is consigned to the opinion of this ignorant person, so it is not farfetched for him to assume [something] not apparent in [its] indication to be apparent in [its] indication just as if one were to see in a book the hadith that he (Allah bless him and grant him peace) said, "Whoever says 'there is no deity but Allah' will enter Paradise,"[199] and he is unaware of other hadiths and verses, he will not doubt that its meaning is that the statement, "There is no deity but Allah," is sufficient for salvation and there is no need for anything else, although the hadith is not clear in [its] indication of this meaning, rather, nor is it unclear [that this is not the meaning]. Likewise, one who sees in a book from the books of hadith that "there is no faith for one who has no trust and no religion for one who has no assurance,"[200] he will not doubt that the traiter and one who breaks a promise has come out of faith although the hadith is not clear in [its] indication of this meaning, nor unclear, by consensus. So this elaboration does not benefit the ignorant person, and is thus incorrect.

Fifth, that he understood His (Exalted is He) statement, "Ask the people of remembrance if you do not know" (16:43) and the statement of the Prophet (Allah bless him and grant him peace), "Do they not ask when they do not know? For indeed the only remedy for ignorance is to ask," as [applying] only to those who do not have any qualification at all, so he excluded from it those who undertand a text with a clear and obvious indication, and this is depraved because the Sahabah about whom the Prophet (Allah bless him and grant him peace) said, "They killed him, Allah kill them! Do they not ask when they do not know? For indeed the only remedy for ignorance is to ask," were more capable of understanding the text than those ignorant people on whom Ibn al-Qayyim makes it necessary to act upon a text with an apparent indication and to issue fatwa according to it and not seek commendation from the opinion

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[199] Al-Bukhari and Muslim narrated it with the wording: "No servant says, 'There is no deity besides Allah,' and then dies upon this, except he will enter Paradise." (Al-Bukhari, op. cit. p. 821, Muslim, op. cit. p. 56)

[200] Ahmad narrated it in his *Musnad* with a *hasan* chain according to Shu'ayb al-Arna'ut (Ahmad, op. cit. 19:376)

of a jurist or imam; and they had issued fatwa in their view according to a text which is clear in [its] indication and not hidden to anyone, and despite this, the Prophet (Allah bless him and grant him peace) did not excuse them and did not negate [the obligation of] asking for them.

Hence, it is apparent that which he construed as the interpretation of the two texts is not the correct understanding of them. Rather, they apply to those who have no qualification for *ijtihad* even if they understand the translation of a text because the aforementioned Sahabah were not ignorant of the translation and they only erred in *ijtihad* since they assumed that the condition of the absence of water is attached to to each one of the "sick," the "traveller," and "the one who comes from the privy" and "one who touches women,"[201] and despite this, the lawgiver considered them ignorant and made it obligatory for them to ask.

If you say: "The Messenger of Allah (Allah bless him and grant him peace) only condemned their fatwa because they issued fatwa on a text without a clear indication that is not obvious to everyone such that nothing else can be supposed, and we have only made fatwa obligatory according to a text which is clear and obvious in [its] indication which does not suppose anything else to anyone," we say: "When they issued fatwa on the obligation to wash for one with the head injury using His (Exalted is He) statement, 'If you are sick or on a journey, or one of you come from the privy, or you have touched women, and you cannot find water, betake yourselves to pure earth,' did they know that this text supposes other than what we said? You must say, 'No,' so we say to you: How are you assured of the ignorant person, on whom you make fatwa according to a text with the aforementioned condition [i.e. "clear indication"] obligatory, that he will not make an assumption like the assumption of those muftis and believe [something that] is not apparent in [its] indication to be apparent in [its] indication, and is thus misguided and misguiding, and is destroyed and destructive?" Hence, it is apparent what he said is wrong, and it is apparent from this that since the like of such an oceanic scholar errs in understanding texts with such error, what is your opinion of ignorant people issuing fatwa according to a hadith using their opinion?

Sixth, that he said, "When it is permissible for the questioner to rely on what the mufti has written from his speech or from the speech of his teacher and if he rises and ascends, then from the speech of his Imam, then it is more deserving that a man is permitted to rely in what trustworthy [individuals] wrote from the speech of Allah's Messenger (Allah bless him and grant him peace)," which is depraved because the speech of a mufti is understood by the laypeople and they do not err in its understanding except little, while the hadith of Allah's Messenger (Allah bless him and grant him peace) is not like this, rather according to us, the like of Ibn al-Qayyim and Ibn Taymiyyah and their likes err in its understanding, and according to them, the like of Abu Hanifah, al-Shafi'i, Malik, Ahmad, Ibrahim al-Taymi and their likes err in its understanding, rather even those greater than them, so how is the speech of the mufti and the hadith of Allah's Messenger (Allah bless him and grant him peace) equal?

It is thus apparent from this that the speech of Ibn al-Qayyim in this benefit is all depraved, and the truth is what the group making *taqlid* obligatory for the non-*mujtahid* layperson said. It is also apparent from this with a clear exposition that the *muqallid* of a *mujtahid* is at less risk and further from error than one who acts upon hadith using his personal opinion when he is a layperson. Had we considered that all the errors of a *mujtahid* are rewarded as distinguished from the error of a non-*mujtahid*, this distinction alone would be sufficient for us. So preserve this and take advantage of it. We ask Allah for forgiveness and protection from errors and slips. Accordance is from Allah.

[201] The verse of *tayammum* states: "If you are sick or on a journey, or one of you come from the privy, or you have touched women, and you cannot find water, betake yourselves to pure earth and wipe your faces and your hands therewith." (Qur'an 5:6) These Sahabah misunderstood the absence of water as being associated with each of the conditions mentioned before it.

Ibn al-Qayyim said in the "forty-ninth benefit" of his book *I'lam al-Muwaqqi'in*:

> Is it permissible for an affiliate of *taqlid* to a specific Imam to issue fatwa according to the opinion of another? The matter is not free of two possibilities: Either, he is asked about the *madhhab* of that Imam only, so it will be said to him, "What is the *maddhab* of al-Shafi'i," for example "in such-and-such an issue?" or he will be asked about the ruling of Allah which his *ijtihad* led him to.
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> If he is asked about the *madhhab* of that Imam, it is not permissible for him to inform him of other than it except by way of an addition to it. And if he was asked about the ruling of Allah without the questioner intending the opinion of a specific jurist, at this point it is necessary for him to issue fatwa according to what is preferred according to him and closer to the Book and Sunnah than the *madhhab* of his Imam or the *madhhab* of those who oppose him. Nothing besides this is permissible for him. If he is not capable of this and he fears it will lead to not issuing a fatwa in that issue, it is not permissible for him to issue fatwa according to what he does not know is correct, so how about according to what his dominant opinion is that the truth is contrary to it?
>
> The ruler and the mufti have no option at all besides this for indeed Allah will ask them about His Messenger and what he brought not about a particular Imam and what he said, and people will only be asked in their graves and in the afterlife about the Messenger (Allah bless him and grant him peace), so it will be said to him in his grave: "What would you say about this man who was sent to you?" "And on the Day when He will call unto them and say: 'What was the answer you gave to the Messengers?'" (Qur'an 28:95), and no one will ever be asked about an imam or a shaykh or an authority besides him, rather he will be asked about the one who others followed and took as their imam, so he should consider what will be his answer and he should prepare a true answer.[202]

I say: Is this but pure sophistry? Because the rule of Allah according to the *muqallid* is what his Imam guides him to not what he assumes himself that it is the rule of Allah since if the rule of Allah with respect to him is what he believes to be the rule of Allah, he would not be a *muqallid*, rather a *mujtahid*, and the situation is contrary to this because so long as the *muqallid* is a *muqallid*, he does not rely on his assumption and he believes what the Imam said is correct even if he did not comprehend the source of this ruling from him, so how is it permissible for him to issue fatwa according to a *madhhab* other than his Imam's?

If you say, "This is not what we are discussing, rather our discussion is about that [ruling] in which he believes his Imam has erred in the issue and the truth is what he himself believes from the perspective of proof," we say, "If he is capable of *ijtihad*, it is not what we are discussing because our discourse is about the *muqallid*, and if he is not qualified, he may not rely on his assumption and consider his Imam wrong due to a suspicion which is included in [the verse] "verily some suspicion is a sin" (Qur'an 49:12), so how can he leave the *madhhab* of his Imam, and how can he say that "what I believe [to be sound] is the rule of Allah"?

If you say, "How is *taqlid* permissible for him when he recognises the rule in regards to the issue from the Book and Sunnah, and *taqlid* is only [permissible] when knowledge is absent, because Allah (Exalted is He) said, 'Ask the people of remembrance if you do not know,' so He made absence of knowledge a condition for asking the people of knowledge and this condition is not found in what we

[202] Ibn al-Qayyim, op. cit. 6:165

are discussing because the scenario is that he knows the rule of Allah from the Book and Sunnah?" we say, "The intent of knowledge in this verse is sound knowledge and sound knowledge is knowledge of the *mujtahid* not knowledge of one incapable of *ijtihad* due to the conditions of understanding the evidences of the laws and the methods of deduction together with freedom from passion and secure understanding and correct thought not being present, so the knowledge of the *muqallid* is not sound knowledge."

If you say, "What you say is only correct when an imam with all the conditions for issuing fatwa does not agree with him, but when an imam from the imams with the conditions of *ijtihad* agrees with him, it proves that his knowledge is sound like the knowledge of that *mujtahid* who agreed with him, since you do not deny the soundness of his knowledge," we say, "We agree that the knowledge of that *mujtahid* is sound knowledge but his knowledge does not entail the soundness of the knowledge of this *muqallid* because the opinion of a *mujtahid* is a proof even if error is possible, as opposed to the opinion of the *muqallid* for it is not a proof even if correct, so the soundness of the knowledge of that *mujtahid* does not entail the soundness of the knowledge of this *muqallid*. Moreoever, if agreement with this imam was an assessment on the soundness of his knowledge, opposition to his imam would be an assessment on its error, and when they conflict, they are both [i.e. soundness and error] negated, so merely his opinion and assumption remain which is not proof, as opposed to when he issues fatwa via *taqlid* of one of the *mujtahids* because the [thing] that is regarded here is the knowledge of the *mujthaid*, which is a valid and sound knowledge and a proof in the Shari'ah but with the possibility of error, not the knowledge of this *muqallid*."

As for what he said, "Allah will ask them about His Messenger and what he brought not about a particular imam and what he said," the answer to this is that the objective of the *muqallid* in [his] *taqlid* is not to follow a specific Imam, rather his objective is following the Messenger, and the Imam is a guide to his commandments and his prohibitions, and his laws and his legislations.

If it is permissible for you to do *taqlid* of al-Bukhari, Muslim and others in that this is a *sahih* or *hasan* hadith or is established from the Messenger, or is weak, forged and rejected, and not established from the Messenger, why is it not permissible for the *muqallid* to imitate the Imam in his statement, "This is the ruling of the Messenger according to my opinion and knowledge"?

His statement, that Allah will not ask the *muqallid* about the specific Imam, will He ask you about al-Bukhari, Muslim and their likes, and their sayings and opinions, and their assumptions and judgements?

What will be your answer before Allah about this *taqlid*? If you have an answer to this, guide us to it, so we can consider if it will be sufficient for our excuse for *taqlid* of an imam or not?

If you say, "We do not do *taqlid* of a specific Imam whether he is right or wrong, rather we investigate the truth, so wherever we find it we accept it, and you imitate a specific Imam whether wrong or right," we say, "How do you know that the truth is with the one whose opinion you accept or with the one whose opinion you reject who opposes you in this and says that it is not correct? Since there is no path for you to recognise the truth in this subject, what will this movement and shifting avail you in that you sometimes take the opinion of this [imam] and another time the opinion of this [imam] despite the possibility of error in what you adopt and [the possibility of] correctness in what you reject? Why are you not content with *taqlid* of an imam who will avail you of this commotion, and will close for you the door of the insinuation from the Shaytan? What is the difference between *taqlid* of a particular imam and *taqlid* sometimes of this [imam] and sometimes of this [imam]?"

If you say, "Our belief of soundness in what our imams say is via proof, while the belief of the *muqallid* is in spite of proof. This is the difference." We say, "If you are qualified to adduce proof you are *mujtahid*s, and our discourse is about the *muqallid* who is not qualified to adduce proof, and if you are not qualified for it, then the likeness of you adducing proof although being unqualified is like the likeness of a sick person who does not know medicine and despite this does not accept the statement of an expert skilled doctor unless [he] adduces evidence using medical proofs. Will any intelligent person do this? And will any sane person praise this?"

And what you said that the *muqallid* believes the soundness of what his Imam said in spite of proof, this is also false because his proof is the expertise of his Imam and his skill in the science, and he is charged with the responsibility of adducing this proof only, and nothing besides it. Hence, it is apparent that what this speaker said is pure sophistry and it stems from not distinguishing between a *muqallid* adducing proof and his assumption and a *mujtahid* adducing proof and his opinion, while the *muqallid* adducing proof and his opinion is ignorance and the *mujtahid* adducing proof is sound knowledge even if it is possibly wrong.

So how is it possible for the *muqallid* to issue fatwa according to what he believes from the perspective of evidence although it is a fatwa without knowledge? And how is it possible for him to say his Imam is wrong despite his ignorance and error being more likely in what he believes than error in [what] his Imam believes? Understand this and don't be fooled by the likes of these insinuations and threats, for many fools have been deluded by them and were misguided and misguided [others]. Allah knows best.

Can the Mufti Issue Fatwa according to the *Madhhab* of another when it is Superior according to him?

Ibn al-Qayyim said in the "fiftieth benefit" from *I'lam al-Muwaqqi'in*:

> Is it permissible for a mufti affiliated to the *madhhab* of a specific Imam to issue fatwa according to another's *madhhab* when it is superior according to him? If he follows the way of that Imam in *ijtihad* and adhering to the evidence wherever it may be, and this is the true adherent of the Imam, he may issue fatwa according to what is superior according to him from the opinion of another. And if he is a *mujtahid* limited to the opinions of that Imam, it was said he mustn't go outside of them to other than them, for he may not issue fatwa according to the opinion of another Imam, and if he intends this, he can only relate from his statement. The truth is that when another's opinion is superior according to him due to a stronger proof, it must have been extracted according to the principles and foundations of his Imam for the Imams are agreed on the foundations of rulings, so whenever one of them gives a weak verdict, his principles refute him and demand the superior view. Thus, every true opinion is undoubtedly extracted from the foundations of the Imams, so when the superiority of this opinion and the accuracy of its source extracted from the principles of his Imam are apparent to this limited *mujtahid*, he may issue fatwa according to it.[203]

This is a grave error by which the foolish are deceived because none benefit from the general principles which the Imams are agreed on besides the absolute *mujtahid*, like their statement, "When a hadith is authentic that is our *madhhab*," and its like. That is not possible for a limited *mujtahid* who is limited to the principles specific to his Imam, and when that is not possible for him, how is it correct to allow him to come out of the *madhhab* of his Imam through that which is not amongst his duties, rather it is from the duties of the absolute *mujtahid*? Is this but incoherence and contradiction?

[203] Ibid. 6:166-7

Since this is the condition of this claimant to absolute *ijtihad*, in that he contradicts himself in a single issue whereby he makes a single person a restricted *mujtahid* and simultaneously makes him an absolute *mujtahid*, then how about the one who imitates him in his fatwas and his rulings, and [how about] a *mujtahid* in the religion deceived by his [own] fatwas and rulings? Hereof, it is apparent to you that it is necessary for *ijtihad* to have, along with piety and knowledge of the laws, correct judgement and sound understanding, and that one who does not have correct judgement and sound understanding, he is not ready to excercise *ijtihad* in the religion even if he is religious with expansive knowledge, for indeed we do not deny the piety of this speaker and the expanse of his knowledge. Despite this, we know he is not a *mujtahid* because his error in *ijtihad* is excessive and vulgar.

This discussion from us was not to scorn him because we know he is from the righteous servants of Allah, from the lovers of Allah, His Messenger and adherence to his Sunnah. However, we said this to draw attention to his errors as a warning, and to warn the ignoramuses of our time who tread his path in *ijtihad* and are deluded by the likes of these words and insult the predecessors and attribute them to what they are free from.

Up to here the treatise called *al-Din al-Qayyim*[204], which we included as the "Third Benefit" in this introduction, ends.

Fawa'id fi 'Ulum al-Fiqh pp. 7-99

[204] This title is a reference to the verse of the Qur'an: "The creation (*fitrat*) of Allah to which He disposed humanity. There is no changing of Allah's creation. That is the upright way (*al-din al-qayyim*)." (30:30) Since *taqlid* is a human instinct, its validity is proven *a priori* based on humanity's common disposition (*fitrah*) as created by Allah, so this must not be altered and acting accordingly is the "upright way."

Appendix

This appendix contains the translations of a collection of essays included in Mawlana Habib Ahmad al-Kiranawi's *Fawa'id fi 'Ulum al-Fiqh* which are relevant to the topic of *taqlid*.

Verification on Adherence to a Specific *Madhhab*

Imam al-Nawawi said in *Sharh al-Muhadhdhab*:

> Is it necessary for the layperson to adopt a specific *madhhab*, adopting its concessions (*rukhas*) and its strictures (*'aza'im*)? There are two opinions on this as related by Ibn Burhan. The first of them is that it is not necessary for him just as it was not necessary in the first period [of Islam] to specify in one's *taqlid* a specific 'alim. The second is that it is necessary, and Abu al-Hasan Ilkiya was assured of this [position]. This applies to all who have not reached the level of *ijtihad* amongst the *fuqaha* and the specialists of the remaining sciences. The reason for this is that if it were permissible to follow any *madhhab* one wishes, it would lead to collecting the concessions of all the *madhhab*s, following one's desire, and choosing between permission and prohibition, obligation and permissibility, and that will lead to relinquishing the burden of responsibility; as distinguished from the first period [of Islam] because the *madhhab*s incorporating laws related to all outcomes were not refined. Based on this, it is necessary for one to strive to choose a specific *madhhab* he will follow. We will pave for him a simple path he should follow when striving to do so. Thus, we say:
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> Firstly, he may not follow in this mere desire and inclination towards what he found his forefathers upon; and he may not adopt the *madhhab* of any of the Imams of the Sahabah (Allah be pleased with them) and others from the early ones, even though they were more learned and higher in rank than those who came after them because they did not devote themselves entirely to compiling knowledge and outlining its principles and its branches, so none of them had a refined, codified and approved *madhhab*, and only those who came after them from the Imams who were affiliated to the *madhhab*s of the Sahabah and the Tabi'in took up this task, undertaking the responsibility of laying down the laws pertaining to all happenings before they occurred, and attempting to clarify their principles and branches, like Malik, Abu Hanifah and others.
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> Since al-Shafi'i came later in time than these Imams and examined their *madhhab*s just as they examined the *madhhab*s of those before them, and he had thus examined them and comprehended them thoroughly, and critiqued them and selected the most favourable opinions from them; and he found that those who came before him sufficed him the burden of structuring *fiqh* and establishing its foundations, so he devoted himself entirely to selecting preferred opinions and assessing them, and completing and revising [the opinions of earlier scholars], with his complete comprehension and mastery in the sciences and his superiority in them over those who preceded him, and then after him none could be found who reached his station in these [sciences], his *madhhab* was the preferred *madhhab* in terms of followership and *taqlid*. This, along with what it contains of balance, and safety from the vilification of any one of the Imams, is manifest and clear. When a layperson reflects deeply on this, it will lead him to choosing the *madhhab* of al-Shafi'i and adopting it.[205]

[205] Abu Zakariyya Muhyi al-Din ibn Sharaf al-Nawawi, *Kitab al-Majmu' Sharh al-Muhadhdhab*, Jeddah: Maktabat al-Irshad, 1:93-4

As you can see, if this were correct, it would lead a layperson to choosing the *madhhab* of Ahmad ibn Hanbal because he came after al-Shafi'i and examined his *madhhab* just as he examined the *madhhab*s of those before him and he had thus examined them and knew them thoroughly and critiqued them with his complete comprehension and mastery in the sciences, particularly in the science of hadith and his preservation and knowledge of the disagreements of the Sahabah and their opinions; and his superiority in this over al-Shafi'i is undeniable for the unbiased and no denier can reject it.

How is coming later in time a point in his favour, when the abundance of intermediaries between the *faqih* and the Prophet (Allah bless him and grant him peace) gives rise to doubt in his reports and causes uncertainty, and his (Allah bless him and grant him peace) intention will be unclear to him? In lateness, [the advantages] of closeness in time are not [found], since the one who is close in time to the Prophet (Allah bless him and grant him peace) takes knowledge from his companions or the companions of his companions freshly, and he finds in the customs of the inhabitants of his town traces and lights of the Prophetic practices more than what one later in time finds in the inhabitants of his town. It is not hidden that the actions of the Muslims in the best of generations are more strongly attributed to the Prophet (Allah bless him and grant him peace) than a solitary narration (*khabar al-wahid*) which we do not know if it is accurate or inaccurate, if the hadith was narrated in its exact wording or in its meaning, and if it was understood or misunderstood.

Were we to give favour to those who came later in time, then indeed Abu Yusuf and Muhammad ibn al-Hasan came later, in the period when hadiths were recorded and the *madhhab*s were reviewed, and they examined the *madhhab* of Imam Abu Hanifah just as he examined the *madhab*s of the early ones, and they examined it and knew it thoroughly and critiqued it and selected the most favourable opinions from it and devoted themselves to selecting the preferred opinions and assessing them and completing and revising earlier opinions, with their complete comprehension and their mastery in the sciences. They differed with their teacher in half of his *madhhab*, and the *madhhab* of Abu Hanifah is the sum of his opinions and the opinions of these two companions of his.

Whoever carefully considers the statement of Ahmad ibn Hanbal, "When in any issue there is the opinion of three persons, their opponent will not be heard," and it was said, "Who are they?" he said, "Abu Hanifah, Abu Yusuf and Muhammad ibn al-Hasan, for Abu Hanifah was the most insightful of men in analogy and Abu Yusuf was the most insightful of men in narrations and Muhammad was the most insightful of men in Arabic," (*al-Ansab* by al-Sam'ani), it will lead one to choosing the *madhhab* of Abu Hanifah and his companions and adopting it.

The truth is that the Imams that are followed in the religion are all upon right-guidance so whichever *madhhab* from their *madhhab*s is prevalent in a town from the towns and the scholars specialised in it are many, it is necessary for the layperson to follow it, and it is not permissible for him to follow an Imam whose *madhhab* is not prevalent in his town and the scholars specialised in it are not many, due to the difficulty in discovering the position of that Imam in all the laws. The present condition is thus, so understand, for indeed the truth will not surpass it if Allah (Exalted is He) wills.

If all the *madhhab*s are prevalent in a town from the towns and they are well-known, and large numbers of scholars specialised in every *madhhab* are present therein, it is permissible for the layperson to follow whichever *madhhab* from the *madhhab*s he wishes and all of them with respect to him are equal. It is also permissible for him not to adopt a specific *madhhab* and seek fatwa from whoever he wishes from the 'ulama of those *madhhab*s, this *madhhab* one time and that *madhhab* another time, as the pious predecessors (Allah be pleased with them) would do, with the condition that one does not combine (*la*

yulaffiq)[206] between two *madhhab*s in one action and does not pursue concessions, following his desires, because that is included in pleasure-seeking (*talahhi*) which is prohibited through explicit texts and Ijma'.

Verification on the Statement of the Imams "When a Hadith is *Sahih*, it is my *Madhhab*."

Imam al-Nawawi said in *Sharh al-Muhadhdhab*:

> It is narrated from al-Shafi'i (Allah have mercy on him) that he said: "When you find in my book [anything] contrary to the Sunnah of Allah's Messenger (Allah bless him and grant him peace), then accept the Sunnah of Allah's Messenger (Allah bless him and grant him peace) and leave my opinion." And it was narrated from him: "When a hadith is *sahih* contrary to my opinion, act upon the hadith and leave my opinion," or he said "then it is my *madhhab*." The purport of this has been narrated with different wordings [from al-Shafi'i].[207]

Al-Nawawi said:

> Our [Shafi'i] companions have acted on this in the issue of *tathwib* [i.e. on the recommendation of saying *al-salatu khayrun min al-nawm* in the Adhan of Fajr] and the condition of being released from *ihram* due to the excuse of illness and other [issues] besides these which are known in the books of the *madhhab*. The meaning of what al-Shafi'i said is not that everyone who sees a *sahih* hadith can say, "This is the *madhhab* of al-Shafi'i," and act on its outward [meaning]. This is only for those who have reached the rank of *ijtihad* in the *madhhab*, the description of which has preceded, or close to it. It is [also] a condition that it dominates his mind that al-Shafi'i (Allah have mercy on him) did not come across this hadith or did not know its authenticity, and this is only [possible] after studying all the books of al-Shafi'i and the likes of them from the books of his companions who took from him and what resembles them. This is a difficult condition, and rarely does one acquire this [qualification]. We only mentioned this condition because al-Shafi'i (Allah have mercy on him) avoided acting on the outward [meaning] of many hadiths which he saw and knew but a proof was erected before him invalidating it or abrogating it or specifying it or interpreting it etc.
>
> Shaykh Abu 'Amr (Allah have mercy on him) said: "Acting on the outward of what al-Shafi'i said is not easy, so it is not permissible for every jurist to independently act on what he believes is proof from hadith. From those who trod this path from the Shafi'is in acting on a hadith which al-Shafi'i left deliberately although he knew its authenticity due to an obstacle which he comprehended and was hidden to others, is Abu al-Walid Musa ibn Abi al-Jarud of those who accompanied al-Shafi'i who said, 'The hadith, "The cupper and the cupped have broken the fast," is *sahih* so I say: Al-Shafii's opinion is that the cupper and the cupped have broken the fast,' and this was not accepted from Abu al-Walid because al-Shafi'i left it although he knew it

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[206] Footnote from the author:

[Shaykh 'Abd al-Wahhab] al-Sha'rani said in *al-Mizan* [*al-Kubra*]:

> It has reached us from Shaykh 'Izz al-Din ibn Jama'ah that, when issuing fatwa to a layperson according to the *madhhab* of a particular Imam, he would order him to carry out all the conditions of that Imam according to whose opinion he issued a fatwa to him, and he would say to him: "If you omit one condition from its conditions, your worship will not be valid according to his *madhhab*, nor [the *madhhab* of any other Imam] besides him, as the worship that combines between a number of *madhhab*s is invalid, unless all the conditions of those *madhhab*s come together." (pp. 13-14)

[207] Nawawi, op. cit. 1:104

is authentic because it was abrogated according to him." Al-Shafi'i clarified its abrogation and adduced proof against it, and you will see this in *Kitab al-Siyam* if Allah (Exalted is He) wills.

...

Shaykh Abu 'Amr said: "Whoever from the Shafi'is finds a hadith contradicing his *madhhab*, it will be deliberated: If the tools of *ijtihad* are perfected in him, absolutely, or in this [particular] subject or issue, he will have complete independence in acting upon it; and if it is not perfected [in him] and it is difficult for him to oppose that hadith after he researched [the matter], and he did not find a satisfactory answer contrary to it, he may act upon it if an independent Imam besides al-Shafi'i acted upon it, and this will be an excuse for him to leave the *madhhab* of his Imam at this point." What he said is excellent and is stipulated. Allah knows best.[208]

I say: This is exactly what we mentioned before in the refutation of Ibn al-Qayyim.

In *Radd al-Muhtar*, [Ibn 'Abidin narrated] from 'Allamah al-Biri from *Sharh al-Hidayah* by Ibn al-Shahnah:

"'When a hadith is *sahih*, it is my *madhhab*.' Ibn 'Abd al-Barr related this from Abu Hanifah and other Imams and Imam al-Sha'rani also transmitted it from the four Imams." It is not hidden that this is for one who is qualified to examine the texts and has knowledge of its non-abrogated [texts] from its abrogated [ones], so when the scholars of the *madhhab* deliberate on an evidence and act upon it, its attribution to the *madhhab* is sound due to it issuing by permission of the founder of the *madhhab*, since there is no doubt that if he knew the weakness of his proof, he would go back on it and follow the stronger proof. For this [reason] the verifier Ibn al-Humam refuted some scholars when they issued fatwa according to the opinion of the two Imams [Abu Yusuf and Muhammad] because the opinion of the Imam is not rejected except when his evidence is weak.[209]

Verification on Switching from one *Madhhab* to another *Madhhab*

Al-Sha'rani said in *al-Mizan*:

The great scholars of every age did not denounce one who switched from one *madhhab* to another *madhhab* except because of what comes to the minds of the assumption that [he] is villifying that Imam whose *madhhab* he left and nothing else, as proven by their approval of the one that switched to [remain] on the *madhhab* to which he switched.

Imam Ibn 'Abd al-Barr (Allah have mercy on him) would say: "It has not reached us from any of the Imams that he would tell his companions to stick to a specific *madhhab*, not believing in the correctness of other than it. Rather, what has been transmitted from them is their approval of people acting on each other's fatwa because all of them are on guidance from their Lord."

He would also say: "It has not reached us in an authentic or weak hadith that Allah's Messenger (Allah bless him and grant him peace) commanded any of the ummah to stick to a specific *madhhab*, not accepting other than it, and this is because every *mujtahid* is correct."

Al-'Iraqi transmitted consensus from the Sahabah (Allah be pleased with them) that those who sought fatwa from Abu Bakr and 'Umar (Allah be pleased with him) and imitated them, after

[208] Ibid. 1:104-6
[209] Ibn 'Abidin, op. cit. 1:167

> that they may ask others from the Sahabah and act on [what they say] without condemnation. The ‘ulama have agreed that one who accepts Islam may do *taqlid* of whomsoever he wishes from the ‘ulama without proof. Whoever claims to reject these two issues of consensus, he must give proof.
>
> Imam al-Zannati from the Maliki imams would say: “It is permissible to do *taqlid* of every one of the scholars of the *madhhab*s in legal cases, and similarly it is permissible to switch from one *madhhab* to another *madhhab* but with three conditions:
>
> “First, that he does not combine between them in such a way that conflicts with consensus like one who marries without dowry [which is allowed in the Shafi‘i *madhhab*], nor a guardian [which is allowed in the Hanafi *madhhab*], nor witnesses [which is allowed in the Maliki *madhhab*], because such a scenario will not be allowed by anyone.
>
> “Second, that he believes in the excellence of the one he imitates by means of his reports reaching him.
>
> “Third, he does not do *taqlid* while falling into misguidance in his religion like imitating [the Imams] in concessions without their conditions.”

Then, al-Sha‘rani narrated from al-Suyuti the names of those who switched from one *madhhab* to another without condemnation from the ‘ulama of their times.

> Al-Suyuti said: “We have observed our ‘ulama and they did not strongly condemn one who was Maliki and then he practiced [the Shari‘ah] as a Hanafi or Shafi‘i, and then he changed after that to a Hanbali, and they only expressed condemnation of one who switches because of the possibility of him playing with the *madhhab*s.”
>
> The author of *Jami‘ al-Fatawa* from the Hanafis said: “It is permissible for the Hanafi to switch to the *madhhab* of al-Shafi‘i and vice versa but *in toto*. As for [switching *madhhab*s] in a particular issue, it is not permissible, like if blood came out from the body of a Hanafi and it flowed, it is not permissible for him to pray before he performs *wudu’* adhering to the *madhhab* of al-Shafi‘i in this issue; and if he prays, his prayer is invalid. Some of them said it is not permissible for the layperson to switch from one *madhhab* to another *madhhab*, whether Hanafi or Shafi‘i.”
>
> In a separate fatwa of al-Suyuti, he encouraged the belief that all the Imams of the Muslims are on right guidance from their Lord, although they vary in knowledge and excellence. It is not permissible for any to show [such] preference which will lead to diminishment of other than his Imam, which is analogous to what has been transmitted about [the prohibition of] giving preference to the Prophets (upon them be peace), especially if that leads to argumentation and degrading their honour. Disagreement in peripheral [issues] occurred amongst the Sahabah and they are the best of the ummah. It has not reached us that any of them disputed another who took an opinion contrary to his opinion, nor was he hostile to him, nor did he attribute error to him or a deficient understanding. It is narrated in a hadith, “The disagreement of my ummah is a mercy.”

Al-Sha‘rani said:

> I saw in the handwriting of Shaykh Jalal al-Din al-Suyuti (Allah have mercy on him) when he was asked about switching from one *madhhab* to another, the text of which is:

"My opinion is that the one switching may have [one of] three conditions:

"First, the motivating factor to switch is a worldly matter, and a [worldly] need compelling him to [seek] the enjoyment that is associated with it, like acquiring a job or a position or closeness to kings and the leaders of the world. The ruling of this is the ruling of the emigrant of Umm Qays[210] if he is a layperson; and if he is a jurist in his *madhhab* and wishes to switch for a worldly objective which is from the blameworthy desires of his soul, then his matter is worse, and may reach to the level of prohibition due to playing with the rules of Shari'ah merely due to a worldly reason.

"Second, that he switches for a religious purpose, like he is a jurist in his *madhhab* [from those qualified to give preference (*ahl al-tarjih*)] and he only switches due to another *madhhab* being preferred according to him for what he believes of its clearer evidences and its stronger discernment – for this [person], switching is obligatory or permissible as said by al-Rafi'i; or he is devoid of understanding and he was occupied with his *madhhab* but nothing came of him therein and he found another *madhhab* easier whereby he hoped to acquire its understanding quickly – for this [person], switching is definitely obligatory and it is forbidden to hesitate because gaining understanding for such a person according to the *madhhab* of an Imam from the four Imams is better than remaining on ignorance.

"Third, that he switches neither for a religious reason nor a worldly reason in that he is free from both intentions. This is permissible for the layperson. As for the jurist, it is disliked or prohibited for him, because he acquired understanding of that first *madhhab* and will require another period of time to acquire therein understanding of the second *madhhab*, so that will busy him from the obligation of acting on what he learned before that, and he may die before acquiring his objective from the other *madhhab*, so it is better for such a person to avoid this."

Al-Sha'rani said:

> We have mentioned previously the obligation of believing in the preference of the opinion of one's Imam over others for as long as he has not reached the level of perfection [i.e. *ijtihad*]. This was stated by Imam al-Haramayn, Ibn al-Sam'ani, al-Ghazali, Ilkiya al-Harrasi and others. They said to their students, "It is necessary for you to do *taqlid* of your Imam, al-Shafi'i, and you have no excuse before Allah to turn away from it." There is no speciality in this for Imam al-Shafi'i for all who are free from partiality. Rather, it is necessary for every *muqallid* from the *muqallid*s of the Imams to believe this about his Imam for as long as he has not reached the level of perfection.

[These 'ulama said this to their students] because these students of theirs were 'ulama but they had not reached the level of *ijtihad* such that they can prefer one *madhhab* over another *madhhab*. It has preceded that such a person is not allowed to switch [*madhhab*s].

As for what al-Suyuti mentioned, of the permissibility of this for the layman when it is not for a religious or a worldly objective, it is a condition, the premise of which is not found in this age except rarely, and [according to a juristic principle,] the rare is like the absent, because commonly the one who switches from one *madhhab* to another *madhhab* from the laypeople, he only switches for a worldly purpose or

[210] This is a reference to the hadith narrated by 'Abd Allah ibn Mas'ud that a man migrated to Madinah to marry a woman called Umm Qays, so he was called "the Emigrant of Umm Qays," as the reward for his migration was marriage to Umm Qays and not the pleasure of Allah. Al-Haythami said after quoting this hadith: "Al-Tabrani narrated it in *al-Kabir* and its narrators are the narrators of the *Sahih*." (Al-Haythami, op. cit. 2:269)

self-desire due to what is [found] in the other *madhhab*s of concessions in some issues which the one switching is afflicted with. This is a cause for abandoning *taqlid* altogether. It has preceded that pleasure-seeking through the rules [of Shari'ah] is forbidden by plain texts and consensus.

So, the apparent [view] is the opinion of specific *taqlid* being obligatory in this age and the absolute prohibition of switching [*madhhab*s] whether one is a layman or a jurist. If he is a *mujtahid* or close to a *mujtahid*, he may do this. How is it permissible for one to claim for himself this position in this age, when Ibn Jarir al-Tabari had claimed it and this was not accepted from him and al-Suyuti claimed it and this was not accepted from him? The one who does not know the condition of his time is an ignoramus. Allah (Exalted is He) knows best, and He is the Guide to the Straight Way.

Fawa'id fi 'Ulum al-Fiqh, pp. 288-95

Addendum

The following is a translated essay extracted from 'Allamah Zafar Ahmad al-'Uthmani's *Qawa'id fi 'Ulum al-Hadith*, also part of the general introduction to *I'la al-Sunan*. I included it as an addendum as it is relevant to some of the issues discussed in the book, but with particular reference to the Hanafi school and the work, *I'la al-Sunan*.

'Allamah Zafar Ahmad al-'Uthmani's Comprehensive Reply to the Objectors of *Taqlid*

It is known from the practice of 'Umar that he would, when anyone narrated to him [something] that he did not recognise from the Messenger of Allah (Allah bless him and grant him peace), say to him: "Do you have with you one who will corroborate you? If not I will punish you." Al-Dhahabi said: "In this is evidence that when a report is narrated by two trustworthy narrators, it is stronger and weightier than what one [narrator] is alone in [narrating]. In this is encouragement of multiplying the paths of hadith, in order that it rises from the degree of uncertainty to the degree of certainty, since one [narrator] may have forgotten or erred, and that is nearly impossible for two trustworthy [narrators] that none opposes." (*Tadhkirat al-Huffaz* 1:6)

I say: Hence, there is no reason therefore to say that Abu Hanifah performed Qiyas excessively in his *madhhab* only because he was present at a time before the codification of hadith, and had he lived till [the period when] the hadiths of the Shari'ah were codified, and after the *huffaz* travelled to collect them from the cities and borders, and he obtained them, he would have accepted them and abandoned every analogy he made, because we say: Had the Imam obtained them, he would not accept from them except what was widespread in the time of the four caliphs, and all that was widespread of hadith in their time, none of it escaped him, as he had encompassed the knowledge of Hijaz and Medina and the Iraqis, proven by the great number of his teachers, and his being the most learned of people in his time by the testimony of the Imams[211] as was previously mentioned; and all exceptions are anomalous (*shadhdh*) or from that which is not obligatory to act upon.

If we conceded that some hadiths which must be acted upon in the Shari'ah were hidden to him, we say: Muhammad, Abu Yusuf, Zufar ibn al-Hudhayl, Ibn al-Mubarak, al-Hasan ibn Ziyad and others of his companions lived until the time hadith was codified; and then al-Tahawi, al-Karkhi, al-Hakim the author of *al-Kafi*, 'Abd al-Baqi ibn Qani', al-Mustaghfiri, Ibn al-Sharqi, al-Zayla'i and others from the *huffaz* of the Hanafis and the critics of hadith from them came later after there had been complete scrutiny of prophetic hadith; and they comprehended its authentic and its weak [reports], and its well-known and its singular [reports].

Hence, every analogy from the analogies of Abu Hanifah which he held in opposition to hadith, his companions like Muhammad, Abu Yusuf, Zufar and al-Hasan left it, and they disagreed with their teacher in half of his *madhhab*, and the *madhhab* of the Hanafis is the sum of the opinions of the Imam, and these disciples of his. Then the hadith-scholars of the Hanafis after them gave preference in some issues to the opinion of al-Shafi'i, and in some of them to the opinion of Malik, and in some of them to the opinion of Ahmad, and they issued fatwa according to what was preponderant according to them based on the evidence; and all of this is the *madhhab* of Abu Hanifah, due to it being consistent with his method and his principles on which he premised his *madhhab*, from which is his preference of

[211] For example, Makki ibn Ibrahim al-Tamimi (126 – 215 H), a famous hadith master from the Salaf and a teacher of al-Bukhari who included his narrations in his *Sahih*, said with respect to Imam Abu Hanifah: "He was the most learned of the people of his time." Al-Khatib al-Baghdadi recorded it in his *Tarikh Baghdad* with a sound chain of narration (Abu Bakr Ahmad ibn 'Ali ibn Thabit al-Khatib al-Baghdadi, *Tarikh Madinat al-Salam*, ed. Bashshar 'Awwad Ma'ruf, 1422 H/2001 CE, Beirut: Dar al-Gharb al-Islami, 15:473)

[scriptural] text even if weak over analogy. So there does not remain, and all praise is to Allah, in our *madhhab* an opinion contrary to hadith except we have with us another hadith supporting us, and that which we apparently oppose, it has with us an interpretation which we do not oppose; and all the Imams and their companions would do likewise.

No one can claim to act on all hadiths in their entirety, and all only act on some of them and leave some of them, either because it is weak according to them or contrary to the text [of the Qur'an] or well-known or mass-transmitted report, or due to it being anomalous or defective or abrogated or interpreted according to a meaning most people have not comprehended, and the like of this.

As for those who condemn *taqlid*, it is not possible for them to act on hadith according to their principle at all, because acting on it is not possible except by imitating some of the 'ulama in that "this hadith is *sahih*," and "this is *da'if*," and "this is obligatory to act upon," and "this is not obligatory to act upon, but it is permissible or desirable or impermissible to adopt," and this, as you see, is all *taqlid* in rulings, since a hadith being obligatory to adopt or vice versa, or impermissible to adopt or vice versa, is definitely from the rulings. This is why the jurists mentioned the discussion of the Sunnah, its acceptance and its rejection, its adoption and its abandonment, and the rulings of the narrators in [the books of] jurisprudence and its principles, due it being from the subject of laws. These people reject *taqlid*, Qiyas and *ijtihad* completely in rulings, so why do they do *taqlid* of the hadith-scholars in this? And why do they make their opinion and their *ijtihad* in authenticating hadiths and weakening them a proof?[212]

And we have already explained many times that the authenticity and weakness of a hadith, and the trustworthiness and weakness of a narrator, all depend on the taste of a hadith-scholar, his opinion and his judgement. This is why *ijtihad* developed amongst them in this; thus, one weakens a hadith and another authenticates it, and one weakens a man and another declares him trustworthy. This is nothing besides differences in opinion. So understand, and do not haste in rejecting a reliable Imam to whose eminence the ummah have bowed, and whose greatness and excellence the imams have recognised. Allah has charge of your guidance.

…

Ibn al-Qayyim said in *I'lam al-Muwaqqi'in* (2:247) in answer to the proofs of the *muqallid*s: "Your statement that the companions of Allah's Messenger (Allah bless him and grant him peace) conquered lands, and the people were new to Islam, and they would issue them fatwas and did not say to them you must seek knowledge of the truth of this fatwa from the evidence, its answer is that they did not issue fatwas to them using their opinions, and they only transmitted to them what their Prophet (Allah bless him and grant him peace) said, did or commanded, so what they issued fatwa upon is the ruling and is

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[212] Footnote from 'Allamah Zafar Ahmad al-'Uthmani:

By this the statement of those who say that Allah Almighty made the report of a truthful person a proof, and the testimony of a righteous person a proof, and the one following proof is not a *muqallid*, is refuted, because authenticating hadith and weakening it is not purely from the category of reporting, rather its pivot is on the judgement of the hadith-scholar and his opinion. Ibn Abi Hatim transmitted in the book *al-'Ilal* (1:10) with his chain to Ibn Mahdi, he said: "Knowledge of hadith is inspiration." Ibn Numayr said: "He spoke the truth. If you said to him: 'From where did you postulate [a particular opinion on hadith]?' He would have no answer." And he transmitted with his chain to Ahmad ibn Salih, he said: "Knowledge of hadith is equivalent to knowledge of gold and brass, since the precious metal is only known by its experts, and the one knowledgeable in this will not have any proof when he is asked: 'How did you postulate that this is good quality or bad quality?'" He [Ibn Abi Hatim] said: "I heard my father say: 'Knowledge of hadith is like a bezel the price of which is a hundred dinar, and another with the same colour the price of which is ten dirham.'" I ['Allamah Zafar Ahmad al-'Uthmani] say: Just as the hadith-scholars know the chains of the hadiths and their wordings, similarly the jurists know their meanings and they are more aware of them than the hadith-scholars, so it is not permissible for a hadith-scholar to dispute the jurist in the meanings, just as it is not permissible for him to dispute a hadith-scholar in the chain and the text of the hadith, unless they combine jurisprudence and hadith like the four Imams and their companions that are followed in Islam.

the proof, and they said to them: 'This is the teaching of our Prophet to us, and it is our teaching to you,' and this, what they informed them of, was proof itself, and that is the ruling, since the speech of Allah's Messenger (Allah bless him and grant him peace) is the ruling and is the proof of the ruling and likewise the Qur'an, and the people at that time would be eager to know what their Prophet said or did or commanded, and the Sahabah only conveyed this to them."

I say: the unpleasantness and bitter arbitrariness in this absolute [statement] is not hidden, and were we to concede this, it entails that the statements and fatwas of the Sahabah were all hadiths traced [to the Prophet (Allah bless him and grant him peace)] due to your saying that "what they issued fatwa upon is the ruling and is the proof," so there is no blame on the Hanafis when they adopt in an issue the opinion of Ibn Mas'ud and his fatwa and they leave a hadith traced [to the Prophet (Allah bless him and grant him peace)] due to your admission that the fatwa of a Sahabi is the ruling and is the proof; and when two hadiths contradict, a preference is acted upon, so if Qiyas gives preference or something else gives preference, making the opinion of a Sahabi equal to the report traced [to the Prophet (Allah bless him and grant him peace)], then it should be permissible according to you to accept the opinion of a Sahabi, and it is not permissible for you to condemn one who does this. So, understand, assemblies of those who denounce *taqlid*!

Furthermore, since the Sahabah (Allah be pleased with them) would not issue fatwa to people based on their opinions, and they would only convey to them what their Prophet said, did or commanded, who told you that the Tabi'in would issue fatwa to people based on their opinions? Why is a similar claim not possible for their fatwas as well, that they would only convey to them what the Sahabah said, did and commanded and likewise, the successors of the Tabi'in, that they only conveyed to their companions what the Tabi'in said, did and commanded, and so on?

If you say: "Then why is it that their fatwas conflict with hadiths the hadith-scholars narrated?" We say: "Then why is it that the fatwas of the Sahabah conflict with hadiths traced [to the Prophet (Allah bless him and grant him peace)] which these [scholars] also narrate?" And none will deny this except one who argues with falsehood and turns a blind eye to the truth. Hence, whatever is your answer is our answer.

According to me, although this statement of Ibn al-Qayyim is not accurate in absolute terms, due to proofs established contrary to it and that the Sahabah would issue fatwas in some issues using their judgement and people did not ask them for evidence which is the very essence of *taqlid*, however, it is accurate with respect to the majority [of their fatwas], since the majority of the statements and fatwas of the Sahabah was by way of transmission from the statement of the Prophet (Allah bless him and grant him peace) or his practice or his command. Since this is so, it is permissible for a *mujtahid* to give preference to the fatwa of a Sahabi over a clear [report] traced [to the Prophet (Allah bless him and grant him peace)] sometimes when it is likely according to him that the fatwa of the Sahabi was based on transmission not opinion.

[Having said] this, I do not intend by this speech to refute Ibn al-Qayyim (Allah have mercy on him) – Allah forbid! – for he is greater than one like us criticising him, for by Allah that we became the dust on his shoes will elevate our rank; rather, I only wished by it to refute those who use his answers as proof to condemn *taqlid*, so their eyes are opened and they reflect on how useful the speech of their leader is. And Allah is sought for help.

Moreover, whoever contemplates on our previous words and studies our book *I'la al-Sunan*, he knows, if Allah Almighty wills, that we are not from the *muqallid*s Ibn al-Qayyim condemned, rather we only do *taqlid* of our Imam, Abu Hanifah, and his disciples, due to our knowledge that they were the most

pursuant of people of the Qur'an and Sunnah, and that they had principles in hadith just as the hadith-scholars have principles in hadith, so there is no blame on us if we oppose them in accepting some hadiths and acting upon them and not acting upon other [hadiths], because the basis of the principles of both groups is *ijtihad,* and there is no tenacity in different *ijtihad*s.

Our scholars would sometimes leave the opinions of their Imam for the opinions of his disciples when it conflicted with the texts, and examples of this are many in the various *madhhab*s, which all who have analysed them will know, and sometimes they would issue fatwa according the opinion of Imams, from whom is the equal of our Imam or equals of his disciples, when they saw the strength of proof was with them, and the like of this. We are not, with praise to Allah, rigid in [following] the opinion of the founder of the *madhhab* by mere favouritism; rather we do *taqlid* of him upon insight, us and those who follow us. Glory be to Allah, we are not from the idolaters.

It is not possible Ibn al-Qayyim deviated from such *taqlid,* since it is necessary for everyone, rather there is no safety in religion without it. This is what Ibn al-Qayyim called "adherence" (*mutaba'ah*) and "obedience to the command." Hence, the words are different while the meaning is the same.

Our expressions are many and your beauty is one

And all are pointing to that [same] beauty

And one who leaves this *taqlid*, and denounces adherence to the Salaf, and considers himself a *mujtahid* or hadith-scholar and realises in himself that he is able to derive laws and answers to questions from the Qur'an and hadith in this time, then he has removed the noose of Islam from his neck or has almost removed [it], for I swear by Allah, we have not seen a group missing religion as an arrow misses its target except this group that denies *taqlid* of the Salaf, condemning its adherents. One of our leaders spoke the truth when he said after a long experience that, "Abandoning *taqlid* is the very basis of apostasy and heresy with respect to the common people." I say: With respect to the 'ulama also, for [a scholar that is] scrupulous, pious, and fearful of Allah, loving of Him and His Messenger, and expending his full effort to seek the truth from the 'ulama is like red sulphur today: it is not found except rarely. And most of them, when they abandon *taqlid,* they begin to follow concessions and follow the passions of their souls, and adopt their desires as their gods, and most of them don't abandon *taqlid* except to argue with the *muqallid*s, and create corruption amongst the Muslims, and make the common people heretics and apostates, for it is known that leaving *taqlid* with respect to them is the very basis of apostasy and heresy.

Qawa'id fi 'Ulum al-Hadith, pp. 454-463

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